- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Rocky Mountain Power for Approval of the 2017 Protocol	DOCKET NO. 15-035-86 ORDER

ISSUED: June 23, 2016

1. PROCEDURAL HISTORY

On December 31, 2015, PacifiCorp dba Rocky Mountain Power ("PacifiCorp") filed its Application for Approval of the 2017 Protocol ("Application"). The 2017 Protocol is a settlement addressing interjurisdictional cost allocation signed by representatives from the following entities: (i) PacifiCorp; (ii) the Idaho Public Utilities Commission Staff; (iii) the Oregon Public Utility Commission Staff; (iv) the Citizens' Utility Board of Oregon; (v) the Utah Division of Public Utilities ("Division"); (vi) the Utah Office of Consumer Services ("Office"); (vii) the Wyoming Office of Consumer Advocate; (viii) Wyoming Industrial Energy Consumers; and (ix) the Wyoming Public Service Commission Staff. The signatories are sometimes referred to collectively herein as the "Parties." On January 14, 2016, the Commission issued a Scheduling Order and Notice of Hearing ("Scheduling Order") outlining a schedule for this docket. On March 16, 2016, the Division, the Office and the Utah Association of Energy Users ("UAE") filed Responsive Testimony. On April 20, 2016, PacifiCorp, the Division, the Office, and UAE filed Testimony Replying to the Responsive Testimony.

On May 26, 2016, the Commission held a hearing to consider the Application. At the hearing, PacifiCorp, the Division and the Office provided testimony supporting Commission approval of the Application. UAE provided testimony in opposition.

2. BACKGROUND

In 1989, the merger of the Pacific Power and Utah Power & Light Company utility systems (referred to hereafter, respectively as "Pacific System" and "Utah System") resulted in the creation of PacifiCorp. Today, PacifiCorp provides retail electric service to more than 1.7 million customers in six states: Utah, Oregon, Wyoming, Washington, Idaho and California. Though it provides service in all of these jurisdictions, PacifiCorp operates as a single integrated electric utility. It has generating plants, transmission lines and other resources located throughout the west that it uses collectively, regardless of a particular asset's location, to provide electricity to customers in all the states it serves. Therefore, the costs PacifiCorp incurs and the wholesale revenues it receives from the use of these facilities must somehow be apportioned among the six states.[1] However, each state's utility commission independently regulates retail rates in these jurisdictions, creating the potential for inconsistent apportionment methods among the states.

At the time of the merger, PacifiCorp argued that integrated system costs would be substantially lower than the sum of the costs of independently operating the systems.[2] Nevertheless, the parties foresaw the risk that PacifiCorp might fail to recoup 100 percent of its costs to the extent jurisdictions adopted inconsistent allocation methods.[3] PacifiCorp agreed

[1] More precisely, PacifiCorp allocates a share of system costs to a total of eight "jurisdictions." In addition to the six states, PacifiCorp allocates costs to wholesale customers taking "full requirements" service in Utah under a Federal Energy Regulatory Commission approved tariff and to two separate Wyoming "jurisdictions."

[2] *See generally, In the Matter of the Application of PacifiCorp for an Investigation of Inter-jurisdictional Issues*, Docket No. 02-035-04, Report and Order dated December 14, 2004.

[3] *See id.,* Report and Order dated February 3, 2012 at 2 (hereafter "2012 Order").

shareholders were to assume all risks that may result from less than full system cost recovery due to the respective jurisdictions adopting differing allocation methods.[4]

a. Beginning with the 1989 Merger that Created PacifiCorp, the Commission has Sought to Implement a Rolled-In Interjurisdictional Cost Allocation Method.

For more than 25 years, state regulators, stakeholders and PacifiCorp have worked to develop an allocation method that fairly and accurately allocates costs among jurisdictions. This Commission has unwaveringly sought over the years to implement a method that treats the utility system as a whole and apportions costs and revenues among PacifiCorp's jurisdictions using a cost-of-service analysis.[5] In other words, the customers in each jurisdiction should bear the proportion of the total utility system costs those customers cause the utility system to incur.[6] The Commission has historically referred to this as the "Rolled-In Method" and deemed it the most suitable means for fairly apportioning costs among the jurisdictions. However, at the time of the merger, the Rolled-In Method was not immediately implemented because of cost differences between the Pacific System and the Utah System. Consequently, through a series of stipulations and proceedings, adjustments were applied to effect a fair and gradual transition to fully rolled-in cost apportionment. The history of these efforts is long, elaborate and need not be fully recounted here.

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[4] *Id.*

[5] *See generally,* 2012 Order.

[6] PacifiCorp utilizes some resources that are not shared and are used to service only a particular jurisdiction. The Rolled-In Method contemplates such resources will be fully allocated to the jurisdiction that utilizes the resource.

The most recent revision to interjurisdictional cost allocation, and the presently operative method, stems from an order the Commission issued in February 2012, adopting what has been termed the "2010 Protocol."[7] The 2010 Protocol removed certain "embedded cost equalization" or "ECD" adjustments that had previously been in effect, which, along with other adjustments to the method, moved the process closer to a fully Rolled-In Method. Of particular significance here, the stipulation that led to the 2010 Protocol limited the method to regulatory filings made prior to January 1, 2017. (*See, e.g.,* Application at 4-5.)

At the time they agreed to the 2010 Protocol, the parties understood that developing a long term method to which all states and stakeholders could agree would be time consuming. In fact, a work group has been coordinating for several years toward this end. Despite these efforts, a long-term consensus has not yet occurred.

b. With the Expiration of the 2010 Protocol Approaching, the Parties Have Agreed to a Short-Term Allocation Method, the "2017 Protocol," that Primarily Employs a Rolled-In Approach with an Equalization Adjustment for Utah.

The parties have stipulated to the use of the "2017 Protocol" as an interim measure, which is set to expire on its own terms on December 31, 2018.[8] In addition to the lack of a current long-term consensus, the rationale behind the interim approach is to allow parties more time to fully understand how emerging policies may ultimately impact interjurisdictional

[7] 2012 Order at 21.

[8] Executed 2017 Protocol, attached as Ex. A to Direct Test. of J. Larsen (hereafter "2017 Protocol"). The 2017 Protocol provides that it may be extended one additional year, through December 31, 2019, provided all state commissions that approve it determine by no later than March 31, 2017 that it should be so extended.

allocation of costs and revenues. (2017 Protocol at 1.) With respect to Utah, the 2017 Protocol essentially employs the Rolled-In Method the Commission has approved with an "Equalization Adjustment" of $4.4 million. (*See id.* at 13.)

3. POSITIONS OF THE PARTIES

All signatories to the 2017 Protocol support its approval, including PacifiCorp, the Division and the Office. UAE is the only party to the docket that opposes the Application.[9] The primary point of controversy with respect to the 2017 Protocol surrounds the Equalization Adjustment, and we briefly summarize the parties' positions on this matter below.

a. The Division Supports the 2017 Protocol.

The Division participated in the negotiations that led to the 2017 Protocol, is a signatory to it and supports its approval. (Direct Test. A. Powell at 12:227.) The Division emphasizes that the 2017 Protocol is a short-lived cost allocation approach that insulates Utah ratepayers from actions of other state commissions. (*Id.* at 14:269-70.) According to the Division, the 2017 Protocol is a fully Rolled-In Method that is consistent with the Commission's objective of allocating costs consistent with the planning and operation of a single system.

The Division points out that a number of different, plausible outcomes exist under a Rolled-In Method, contingent, for example, on the manner in which demand-energy classifications and coincident peaks are weighted. (*Id.* at 12:215-224.) Under different but plausible assumptions, the Division contends Utah's revenue requirement could decrease by as much as 0.05 percent or increase by as much as 3.0 percent using a Rolled-In Method depending

[9] Kennecott Utah Copper LLC filed unsworn comments opposing portions of the Application. Kennecott did not file a petition to intervene and did not participate in the hearing.

on how these factors are treated. (*Id.*) The Division asserts the value of Utah's 2017 Equalization Adjustment was negotiated to be approximately 0.20 percent to 0.25 percent of Utah's annual revenue requirement, and the Division estimates that Utah's $4.4 million Equalization Adjustment is approximately 0.22 percent of Utah's revenue requirement based on PacifiCorp's June 2015 results of operations. (*Id.*) The Division argues the Equalization Adjustment is therefore reasonable relative to the range of plausible outcomes under the Rolled-In Method. (*Id.* at 14:269.)

b. The Office Supports the 2017 Protocol.

The Office also participated in the negotiations that led to the 2017 Protocol and supports its approval. (Direct Test. M. Beck at 1:12.) The Office emphasizes that the 2017 Protocol is "a transitional allocation method [to be used] while [PacifiCorp] and parties evaluate the impacts of the [EPA's] Clean Power Plan under section 111(d) and other multi-jurisdictional issues." (*Id.* at 3:48-51.) The Office represents the "2017 Protocol Adjustment is an attempt to achieve an allocation method that all parties could support and that would be acceptable to all states while decreasing the revenue shortfall [PacifiCorp] reports it is experiencing." (*Id.* at 4:65-68.) The Office has long advocated that the Rolled-In Method is the most appropriate method for fairly distributing costs among the states. The Office asserts the 2017 Protocol "essentially maintains the rolled-in allocation method" but acknowledges "that the Equalization Adjustment could be seen to diverge from rolled-in." (*Id.* at 5:93-95.) Similar to the Division, the Office believes "adding this small [Equalization Adjustment] to the revenue requirement outweighs the risks and

potential costs that were in play during discussions of other potential allocation methods." (*Id.* at 5:95-98.)

c. UAE Opposes the 2017 Protocol.

UAE actively participated in the negotiations that led to the 2017 Protocol but has not joined it and opposes its approval. UAE asserts the 2017 Protocol "misaligns the cost and risk born by Utah rate payers." (Hr'g Tr. at 59:4-5.) Specifically, UAE points to fluctuations in generation from the former Pacific System hydroelectric generating stations and asserts Utah ratepayers are subject to "hydro related risk" associated with these plants. UAE maintains that so long as PacifiCorp enjoys an Energy Balancing Account and Utah ratepayers are subject to the "hydro related risk" associated with these Pacific System assets, Utah ratepayers should not be subject to any additional revenue requirement on top of that yielded by a fully Rolled-In Method. (*See* Direct Test. N. Townsend 5:95-103.)

d. PacifiCorp Supports the 2017 Protocol.

PacifiCorp participated in the negotiations that led to the 2017 Protocol and supports its approval. PacifiCorp contends the Equalization Adjustment represents a negotiated amount unrelated to any one particular item. (Rebuttal Test. S. McDougal at 3:67-68.) PacifiCorp asserts all of the past interjurisdictional cost allocation agreements were negotiated stipulations and the Commission has recognized that stipulations are the result of parties' ability to reach an overall, negotiated outcome despite their inability to reach agreement on individual issues. (*Id.* at 5:90-94.) PacifiCorp contends this is the case with the Equalization Adjustment. Moreover, PacifiCorp claims Utah customers will realize benefits from the settlement by retaining the

demand-energy and coincident peak weighting assumptions underlying the 2017 Protocol. (*See id.* at 5:105-6:118.)

Like the Division, PacifiCorp asserts the Rolled-In Method can yield a variety of possible outcomes, depending on which of various coincident peaks and demand and energy weightings are employed. (*Id.*) The potential outcomes range from a decrease to Utah's revenue requirement of 0.05 percent to an increase of 3.0 percent. (*Id.* at 4:85-5:90.) According to PacifiCorp, the parties' negotiation of the Equalization Adjustment can be seen as a temporary resolution of disagreements with respect to what coincident peaks and what demand and energy weightings should be employed in a fully Rolled-In Method.

PacifiCorp agrees with the Division's estimate that the $4.4 million Equalization Adjustment is approximately 0.22 percent of Utah's revenue requirement. (*Id.*) Because this falls within the range of potential revenue requirement results under a fully Rolled-In Method, PacifiCorp asserts the Equalization Adjustment is a reasonable outcome for Utah ratepayers.

4. DISCUSSION, ANALYSIS AND CONCLUSION

The legislature encourages settled resolutions to matters pending before the Commission. Utah Code Ann. § 54-7-1. The Commission may adopt settlement proposals provided (i) the Commission finds the settlement is just and reasonable in result; and (ii) the evidence supports a finding the settlement is just and reasonable in result. *Id.* at § 54-7-1(3)(d)(i). This docket was initiated for the express purpose of seeking Commission approval of the 2017 Protocol, which constitutes a settlement signed by nine different parties from four distinct jurisdictions with diverging interests and objectives.

The Commission appreciates PacifiCorp must recover its costs in a manner sufficient to viably operate as a fully merged and integrated system. The Commission further appreciates that disagreement exists among the multiple jurisdictions in which PacifiCorp operates as to how costs should be allocated. While this Commission has never wavered in its conviction that a Rolled-In Method represents the most equitable manner for allocating PacifiCorp's costs, the Commission recognizes that disagreement may exist as to what coincident peaks should be employed and how demand and energy are weighted even within the context of a fully Rolled-In Method. The Commission also understands the 2017 Protocol to be a short-term strategy to facilitate cost recovery in light of the imminent expiration of the 2010 Protocol.

Additionally, we are cognizant that the 2017 Protocol is the result of lengthy, extended negotiations. Utah ratepayers' interests were represented throughout those negotiations by two public agencies, the Division and the Office. Both of these agencies signed the 2017 Protocol and advise us that it is just, reasonable and in the public interest to approve it. In fact, the Division testified that under the competing Rolled-In Methods being considered, Utah ratepayers' revenue requirement could have increased by as much as three percent. The Equalization Adjustment to which the parties agreed is modest relative to such an outcome.

We do have reservations concerning the provision in the 2017 Protocol subtitled "Interdependency among Commission Approvals," located under Section XIII(E), providing parties will have the opportunity to accept or reject continued support of the 2017 Protocol in the event "a Commission materially deletes, alters, or conditions [its] approval of the 2017 Protocol." Parties are, of course, free to condition their support however they see fit. However, we view the Equalization Adjustment as a negotiated ceiling on the amount Utah ratepayers are

willing to pay to mitigate any risks attendant to other states' approach to cost recovery during the term of the 2017 Protocol. We cannot approve this agreement with the understanding that another state commission may send the parties "back to the drawing board" and potentially request Utah ratepayers to shoulder a greater sum. That is, we approve the 2017 Protocol with the expectation that Utah ratepayers will receive the benefit of their bargain and their maximum exposure with respect to interjurisdictional cost allocation will be as contemplated in the 2017 Protocol as it has been presented to us.

5. ORDER

Having reviewed the Application, the 2017 Protocol, the written testimony submitted in this docket and the evidence presented at hearing, the Commission finds the 2017 Protocol is just and reasonable in result and is otherwise in the public interest. The Commission therefore approves the 2017 Protocol on its terms and as filed with the Commission on December 31, 2015 as Exhibit A to the Direct Testimony of Jeffrey K. Larsen.

DATED at Salt Lake City, Utah, this 23rd day of June, 2016.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW# 278635

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on June 23, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

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