
Application of Rocky Mountain Power for
Approval of the 2020 Inter-Jurisdictional Cost
Allocation Agreement

DOCKET NO. 19-035-42
ORDER APPROVING 2020 PROTOCOL

ISSUED: April 15, 2020

I. PROCEDURAL HISTORY

On December 3, 2019, Rocky Mountain Power (RMP) filed its Application for Approval of the 2020 Inter-Jurisdictional Cost Allocation Agreement (“Application”) with the Public Service Commission of Utah (PSC).¹ The Application asks the PSC approve an agreement, the 2020 PacifiCorp Inter-Jurisdictional Allocation Protocol (“2020 Protocol”), that PacifiCorp and more than twenty government agencies, customer associations, conservation groups, and individual large customers (collectively, “Parties”) have signed, which addresses interjurisdictional cost allocation.² The following of the signatories are parties to this docket: the Utah Division of Public Utilities (DPU), the Utah Office of Consumer Services (OCS), the Utah Association of Energy Users (UAE), Utah Clean Energy (UCE), and Western Resource Advocates (WRA).

¹ The Application includes direct testimony of three witnesses and the following Exhibits: 1) Exhibit RMP_JRS-1, 2020 Protocol; 2) Exhibit RMP_JRS-2, 2020 Protocol Timeline; and 3) Exhibit RMP_JRS-3, Utah Letter Agreement.

² The following is a complete list of signatories to the 2020 Protocol, as filed with the PSC: PacifiCorp, Alliance of Western Energy Consumers, The Healthy Environment Alliance of Utah, Idaho Conservation League, Idaho Public Utilities Commission Staff, Idaho Irrigation Pumps Association, Interwest Energy Alliance, Monsanto Company, Oregon Citizens’ Utility Board, Oregon Public Utility Commission Staff, PacifiCorp Idaho Industrial Consumers, Packaging Corporation of America, Powder River Basin Resource Council, Sierra Club, Utah Association of Energy Users, Utah Clean Energy, Utah Division of Public Utilities, Utah Office of Consumer Services, Washington Utilities & Transportation Commission Staff, Western Resource Advocates, Wolverine Fuels, Wyoming Industrial Energy Consumers, Wyoming Office of Consumer Advocate, and the Wyoming Public Service Commission Staff.

On December 17, 2019, the PSC issued a Scheduling Order, Notice of Technical Conference, and Notice of Hearing, outlining a schedule for this docket. In addition to the signatory intervenors referenced in the preceding paragraph, Nucor Steel-Utah, a Division of Nucor Corporation (“Nucor Steel-Utah”), intervened in the docket.

On February 25, 2020, DPU, OCS, and WRA filed direct testimony. On March 24, 2020, the PSC held a hearing to consider the Application. At the hearing, RMP, DPU, OCS, and WRA testified in support of PSC approval of the Application. Counsel for UAE, UCE, and Nucor Steel-Utah appeared at the hearing though these parties did not offer testimony.

II. BACKGROUND

For more than 30 years, state regulators, stakeholders, and PacifiCorp have worked to develop allocation methods that fairly and accurately allocate costs among the six jurisdictions in which PacifiCorp operates.³ In 2015, various parties stipulated to the use of the “2017 Protocol” as an interim measure, which expired on its own terms on December 31, 2018⁴ and was later extended by PSC Order until December 31, 2019.⁵ In addition to the lack of a long-term consensus, the rationale behind the interim approach was to allow parties more time to fully

³ A detailed background and history of the events leading up to the 2020 Protocol is presented in the Application and in the PSC’s June 23, 2016 Order in Docket No. 15-035-86, *In the Matter of the Application of Rocky Mountain Power for Approval of the 2017 Protocol* [hereafter the “2017 Protocol Docket”].

⁴ A copy of the 2017 Protocol may be referenced in the 2017 Protocol Docket, submitted as Ex. A to the Direct Test. of J. Larsen filed on Dec. 31, 2015. The 2017 Protocol provided that it may be extended one additional year, through December 31, 2019, conditioned on approval by all state commissions that initially approved it no later than March 31, 2017.

⁵ See *Application of Rocky Mountain Power to Extend the 2017 Protocol through December 31, 2019*, Docket No. 17-035-06 (Order issued March 23, 2017).

understand how emerging policies may ultimately impact interjurisdictional allocation of costs and revenues. (2017 Protocol at 1.) With respect to Utah, the 2017 Protocol essentially employed the “Rolled-In Method” the PSC had previously approved with an “Equalization Adjustment” of \$4.4 million. (*See id.* at 13.)

The 2020 Protocol⁶ is intended to supersede the 2017 Protocol for California, Idaho, Oregon, Utah, and Wyoming, and the West Control Area Inter-jurisdictional Allocation Methodology (“WCA”) for Washington, continuing to use both allocation methodologies with modifications during an interim period (“Interim Period”).⁷ The modifications to the 2017 Protocol during the 2020 Protocol’s Interim Period include: (1) elimination of the equalization adjustment; (2) changes to the embedded cost differential adjustments; (3) changes to treatment of qualifying facilities (QFs);⁸ and (4) changes to the general governance sections of the 2017 Protocol.

Briefly, the 2020 Protocol includes: (1) certain time frames and effective periods, as defined in Section 2; (2) “an agreement on certain issues that are intended to be implemented during the Interim Period, (‘Implemented Issues’)”; (3) “an agreement on certain issues intended

⁶ The 2020 Protocol includes Appendix A, Definitions; Appendix B, Allocation Factors by Account by Revenue Requirement Components; Appendix C, Definitions of Allocation Factors; Appendix D, Nodal Pricing Model Memorandum of Understanding; Appendix E, Coal-Fueled Interim Period Resource Depreciation Lives; Appendix F, Washington Inter-Jurisdictional Allocation Methodology Memorandum of Understanding; and Appendix G, Special Contracts.

⁷ The Interim Period is defined as January 1, 2020, until the earlier of resolution of all remaining cost-allocation issues or December 31, 2023.

⁸ The 2020 Protocol modifies the treatment of QFs and provides for a transition in which current QF contracts are system allocated, but future QF contracts are the responsibility of the state approving them.

to be implemented following the Interim Period, subject to final resolution of all outstanding issues identified in the 2020 Protocol, which are referred to as ‘Resolved Issues’;⁹ (4) a process and time frame to address and attempt to resolve “all outstanding issues,” which are collectively referred to as “Framework Issues,”¹⁰ that the Parties intend to resolve during the Interim Period if the 2020 Protocol is approved by the state commissions. The resolution of the Framework Issues combined with the Implemented Issues and the Resolved Issues are all intended to result in a new allocation methodology for PacifiCorp’s six states (“Post-Interim Period Method”); (5) a description of interjurisdictional allocation policies, procedures, or methods that, if applied by each state as agreed to in the 2020 Protocol for rate proceedings filed during the Interim Period, will provide PacifiCorp a reasonable opportunity to recover its prudently incurred cost of service; and (6) a description of the way costs and revenues associated with all components of PacifiCorp’s regulated service, including those associated with generation, transmission, distribution, and wholesale transactions, should be assigned or allocated among the six states.¹¹

⁹ The Resolved Issues that will be implemented as part of the Post-Interim Period Method include: allocation of generation costs and fixed assignment of new resources, transmission costs, distribution costs, system overhead costs, administrative and general costs, other allocation issues, demand-side management, and state-specific initiatives.

¹⁰ Framework Issues include the treatment of net power costs and the implementation of a nodal pricing model, resource planning, new resource assignment, limited realignment, special contracts, and Post-Interim Period capital additions on coal plants.

¹¹ As presented in the 2020 Protocol, new resources will be assigned and allocated as follows: (1) new resources with a commercial operation date before January 1, 2024 will continue to be treated as system resources, and assigned and allocated based on the system generation factor; (2) new resources, including new resources contemplated in the action plans of the 2019, 2021, or 2023 integrated resource plans with commercial operation dates after December 31, 2023 will be assigned and allocated through the new resource planning and new resource assignment processes determined through resolution of the Framework Issues.

The Application also includes a Letter Agreement between RMP and certain Utah Parties related to the requirements for Interim Period resource reassignment filings in connection with the 2020 Protocol.

III. POSITIONS OF THE PARTIES

All signatories to the 2020 Protocol support its approval, including RMP, DPU, OCS, UAE, WRA, and UCE. No party opposed the 2020 Protocol.

A. DPU Supports the 2020 Protocol.

DPU participated in the negotiations that led to the 2020 Protocol, signed it, and supports its approval. (Direct Test. of A. Powell filed Feb. 25, 2020 at 7:110-119.) DPU states the primary difference between the 2020 Protocol and past allocation methods is how generation costs are apportioned to the states. DPU explains how costs will be assigned and allocated if the Framework Issues can be resolved¹² and points out that resolution of the Framework Issues is necessary for a new Post-Interim Period Method to be developed and implemented. DPU also states that resolution of the Framework Issues and development of the Post-Interim Period Method may require evaluation of other issues such as resource planning/assignment and RMP's avoided cost method.

At the hearing, DPU supported the 2020 Protocol and recommended the PSC adopt it as being in the public interest. (Mar. 24, 2020 Hr'g Tr. at 28:7-9 [hereafter "Hr'g Tr."].)

¹² According to the DPU: (1) the Post-Interim Period Method will assign and allocate costs based on state-specific fixed generation portfolios as opposed to the currently used dynamic allocation method; (2) interim period resources will be assigned and allocated using a newly defined system generation fixed Factor; and (3) new resources will be assigned and allocated based on a fixed assignment under a process to be determined as a Framework Issue.

B. OCS Supports the 2020 Protocol.

The OCS also participated in the negotiations that led to the 2020 Protocol and supports its approval. (Direct Test. of C. Murray filed Feb. 25, 2020 at 1:17-22.) OCS states the four-year term of the 2020 Protocol Interim Period is intended to allow parties time to continue working on the Framework Issues for which resolution is necessary for any agreement on a Post-Interim Period Method. According to OCS, substantial work on the Framework Issues remains in order to reach an agreement prior to the end of the Interim Period.

Like DPU, OCS points out that unless all issues, including Framework Issues, are ultimately resolved and agreed to by the Parties, the Resolved Issues are not binding and the 2020 Protocol addresses the process should this occur. At hearing, OCS testified the settlement is in the public interest, and is just and reasonable in result. (Hr'g Tr. at 31:5-8.)

C. WRA Supports the 2020 Protocol.

WRA actively participated in the negotiations that led to the 2020 Protocol and supports its approval. WRA states the 2020 Protocol offers an opportunity for the state to make intentional, risk-aware decisions about its energy future and it provides a reasonable path to a near-term future in which states are no longer served by a common resource portfolio. (Direct Test. of N. Kelly filed Feb. 25, 2020 at 4:51-54.) WRA supports the 2020 Protocol because it provides a reasonable transition from dynamic allocation of system generation to fixed allocation of state-specific generation following a state's exit from common resources. WRA maintains the 2020 Protocol has the additional benefit of finally achieving a nearly rolled-in allocation through the Interim Period.

At the hearing, WRA recommended the PSC approve the 2020 Protocol as just and reasonable in result. (Hr'g Tr. at 33:20-21.)

D. RMP Supports the 2020 Protocol.

RMP participated in the negotiations that led to the 2020 Protocol and supports its approval. RMP testifies the 2020 Protocol has been negotiated in good faith as an integrated, interdependent agreement that balances the interests of the Parties. (Direct Test. of J. Steward filed Dec. 3, 2019 at 30:645-648.) Further, RMP states that through a robust and collaborative process, the 2020 Protocol responds to diverging state policies through, among other things, a gradual process of transitioning California, Oregon, and Washington from allocation of costs and benefits of coal-fueled generation resources and a process to allow Idaho, Utah, and Wyoming to take on additional allocation of costs and benefits. (*Id.* at 6:127-131.) According to RMP, this gradual process provides certainty to states that have policies requiring a transition away from coal-fueled generation without limiting the availability of those same resources to states that wish to continue receiving costs and benefits from coal-fueled generation. (*Id.* at 6:131-7:134.)

According to RMP, the 2020 Protocol represents a fundamental shift in how RMP proposes to address inter-jurisdictional cost allocation, with the ultimate goal of moving away from dynamic allocation factors and a common generation resource portfolio to a cost-allocation protocol with fixed allocation factors for generation resources and state specific resource portfolios. RMP explains the differences between the 2017 and 2020 Protocols and the work remaining during the Interim Period. RMP testifies it believes the 2020 Protocol has created a strong framework to enable transition and support for the required ongoing discussions and, therefore, recommends the PSC approve the Application as filed. (Hr'g Tr. at 14:12-16.)

IV. DISCUSSION, ANALYSIS, AND CONCLUSION

The Legislature encourages settlement in matters before the PSC. Utah Code Ann. § 54-7-1. The PSC may approve a settlement provided the evidence supports the PSC's finding that the settlement is just and reasonable in result. *Id.* at § 54-7-1(3)(d)(i). RMP initiated this docket for the express purpose of seeking PSC approval of the 2020 Protocol, a settlement that over twenty different parties from five jurisdictions have signed notwithstanding their respective interests and objectives.¹³

We conclude PacifiCorp must recover its costs in a manner sufficient to viably operate as a fully merged and integrated system, to the benefit of all Parties. We acknowledge the tremendous amount of time and effort expended to achieve consensus between all of the Parties and recognize the overwhelming support for the 2020 Protocol. Utah ratepayers' interests were represented throughout those negotiations by two public agencies, DPU and OCS. Both of these agencies signed the 2020 Protocol and testify that it is just, reasonable, and in the public interest to approve it. UAE, representing numerous commercial and industrial customers, signed the agreement. WRA, advancing conservation interests, also signed it.

DPU and OCS identify features of the 2020 Protocol that will protect ratepayers in the event of changed circumstances or if Framework Issues are not resolved. We find these ratepayer protections are important elements of the 2020 Protocol. We also recognize that during the Interim Period the 2020 Protocol implements a rolled-in method, which we have approved and adopted. We find the 2020 Protocol's transitional approach, including continued evaluation of

¹³ According to the Application, California has historically reviewed allocation methodologies in conjunction with a general rate case. (Application at 9, n.5.)

the issues surrounding differing state policies as they affect PacifiCorp's planning, operation, and maintenance efforts, is reasonable. For these reasons, we find and conclude the 2020 Protocol is just, reasonable, and in the public interest.

V. ORDER

Having reviewed the Application, the 2020 Protocol, the written testimony, and the evidence presented at hearing, the PSC finds the 2020 Protocol is just and reasonable in result and is in the public interest. The PSC, therefore, approves the Application.

DATED at Salt Lake City, Utah, April 15, 2020.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

DW#313123

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 PSC 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 PSC 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 PSC'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 April 15, 2020, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Data Request Response Center (datareq@pacificorp.com, utahdockets@pacificorp.com)
PacifiCorp

Jana Saba (jana.saba@pacificorp.com)
Emily Wegener (emily.wegener@pacificorp.com)
Rocky Mountain Power

Phillip J. Russell (prussell@jdrsllaw.com)
Utah Association of Energy Users

Sophie Hayes (sophie.hayes@westernresources.org)
Nancy Kelly (nkelly@westernresources.org)
Steven S. Michel (smichel@westernresources.org)
Western Resource Advocates

Peter J. Mattheis (pjm@smxblaw.com)
Eric J. Lacey (ejl@smxblaw.com)
Stone Mattheis Xenopoulos & Brew, P.C.
Jeremy R. Cook (jcook@cohnekinghorn.com)
Cohne Kinghorn
Attorneys for Nucor Steel-Utah, a Division of Nucor Corporation

Hunter Holman (hunter@utahcleanenergy.org)
Utah Clean Energy

Patricia Schmid (pschmid@agutah.gov)
Justin Jetter (jjetter@agutah.gov)
Robert Moore (rmoore@agutah.gov)
Victor Copeland (vcopeland@agutah.gov)
Assistant Utah Attorneys General

DOCKET NO. 19-035-42

- 12 -

Madison Galt (mgalt@utah.gov)
Division of Public Utilities

Cheryl Murray (cmurray@utah.gov)
Office of Consumer Services

Administrative Assistant