

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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<b>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</b>	)	<b>Docket No. 20-035-04</b>
	)	
	)	<b>Surrebuttal Testimony</b>
	)	<b>of Philip Hayet</b>
	)	<b>For the Office of</b>
	)	<b>Consumer Services</b>

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**REDACTED VERSION**

**October 29, 2020**

1 **I. INTRODUCTION AND SUMMARY OF POSITIONS**

2 **Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?**

3 A. My name is Philip Hayet and I am a Vice President and Principal of J. Kennedy  
4 and Associates, Inc. (“Kennedy and Associates”). My business address is 570  
5 Colonial Park Drive, Suite 305, Roswell, Georgia, 30075.

6 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS CASE?**

7 A. I am the same Philip Hayet who filed direct testimony in this proceeding.

8 **Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?**

9 A. I address various arguments raised by Rocky Mountain Power (“RMP”) witnesses,  
10 including Ms. Joelle Steward, Mr. Rick Link, Mr. Robert Van Engelenhoven, Mr.  
11 Timothy Hemstreet, and Mr. Dana Ralston in their respective rebuttal testimonies  
12 filed on October 5, 2020. My direct testimony addressed certain GRID modeling  
13 issues, inclusion of the Production Tax Credits (“PTCs”) in the EBA, disallowance  
14 of wind projects (Foote Creek and Pryor Mountain) that were not pre-approved in  
15 Docket Nos. 17-035-39/40, and repair costs for the Lake Side 2 and Blundell  
16 generator outages.

17 **Q. PLEASE PROVIDE A SUMMARY OF RMP’S REBUTTAL TESTIMONY  
18 THAT RELATED TO YOUR DIRECT TESTIMONY.**

19 A. RMP argues that the Pryor Mountain wind project was a prudently incurred  
20 investment and should receive the same regulatory treatment as pre-approved  
21 projects, despite having excessive costs, relying on affiliate transactions, and not  
22 seeking pre-approval for the project. RMP also argues that the project was  
23 reasonable, albeit acknowledging that there was no market for the safe harbor wind

24 turbine generators (“WTG’s”) it purchased from its affiliate, Berkshire Hathaway  
25 Energy Renewables (“BHER”). RMP disputes the validity of my other adjustments  
26 and recommendations.

27 **Q. ARE THERE ANY NEW DEVELOPMENTS RELATED TO THE ISSUES**  
28 **YOU ADDRESSED IN YOUR DIRECT TESTIMONY?**

29 A. Yes. RMP acknowledges in its rebuttal testimony that several of the wind projects  
30 have been impacted by COVID 19 related force majeure claims.<sup>1</sup> The completion  
31 date of the full Pryor Mountain project has now been delayed until the end of the  
32 second quarter of 2021,<sup>2</sup> and the cost of the project has increased from [REDACTED]  
33 [REDACTED] which is a [REDACTED] increase in cost.<sup>3</sup>

34 Regarding the long Lake Side 2 outage, RMP has now indicated that the  
35 Second Root Cause Analysis (“RCA”) for the outage has been delayed until  
36 December of 2020,<sup>4</sup> long after the hearing for this case will be completed, making  
37 it impossible for that document to be submitted as evidence in this proceeding. It  
38 is worth noting that this report has now been delayed twice.

39 **Q. PLEASE SUMMARIZE YOUR CURRENT CONCLUSIONS AND**  
40 **RECOMMENDATIONS.**

41 A. After review and consideration of RMP’s rebuttal testimony, my conclusions and  
42 recommendations are as follows:<sup>5</sup>

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<sup>1</sup> Rebuttal Testimony of Ms. Joelle Steward at l. 13.

<sup>2</sup> Rebuttal Testimony of Mr. Robert Van Engelenhoven at l. 42.

<sup>3</sup> Id. at l. 53.

<sup>4</sup> Notification via email from RMP.

<sup>5</sup> The revenue requirement adjustment I present in this testimony is for illustrative purposes and is based on the RMP’s requested rate of return, capital structure and other ratemaking conventions as applicable. OCS

- 43 1.) The Office of Consumer Services (“OCS”) is no longer proposing a  
44 disallowance for the Foote Creek repowering project. The OCS continues  
45 to support the Pryor Mountain disallowance. Based on the Company’s  
46 revised filing, this adjustment lowers revenue requirements by  
47 approximately \$ [REDACTED] million on a Utah allocated basis.<sup>6</sup> OCS witness  
48 Ramas updates the proposed adjustment to reflect RMP’s revised filing.<sup>7</sup>
- 49 2.) The OCS is no longer pursuing the market cap adjustment for the purposes  
50 of this case at this time. The OCS’s only remaining Net Power Cost  
51 (“NPC”) issue is related to the alignment of NPC with the OCS’ proposed  
52 rate base disallowance of the Pryor Mountain wind project.
- 53 3.) The OCS withdraws the Blundell outage adjustment. The OCS continues  
54 to support the long Lake Side 2 outage disallowance.<sup>8</sup>
- 55 4.) The OCS no longer opposes a true-up of Production Tax Credits (“PTCs”) in the EBA. Due to the delay of the various wind projects, the OCS believes a true-up of PTCs now appears to be more reasonable. While the OCS continues to have reservations about inclusion of PTCs in the EBA, it is an acceptable solution at this time. OCS witness Ramas accounts for this in the revenue requirement calculations that she performs.

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**62 PRYOR MOUNTAIN**

63 **Q. PLEASE DISCUSS THE OCS’S POSITION REGARDING THE PRYOR**  
64 **MOUNTAIN WIND PROJECT.**

65 **A.** The OCS believes that the Pryor Mountain wind project should be disallowed.  
66 RMP’s decision-making process led to an imprudent acquisition of a wind project  
67 that is more expensive than other recent acquisitions, and is not strictly necessary  
68 to satisfy RMP’s resource requirements. RMP’s resource acquisition decision not

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witness Ramas will input all of the pertinent data into the JAM model to develop the OCS’ final recommended revenue requirements.

<sup>6</sup> See Hayet Workpapers.

<sup>7</sup> The response to OCS 23.3-1 and 23.3-2 1st Revised was used to derive this adjustment. That response is included in Mr. Hayet’s Exhibit OCS 4.1S. As mentioned, OCS witness Ramas has inputted all of the pertinent data into the JAM model to develop the OCS’ final recommended revenue requirements.

<sup>8</sup> Note that Mr. Hayet redacted the names of the two units with outages in his Direct Testimony. Since Company Witness Dana Ralston identified the names of the units in his Public Rebuttal Testimony, Mr. Hayet has done the same in this Surrebuttal Testimony. Note also, that Mr. Hayet referred to the Lake Side 2 outage as “Outage 1” and the Blundell outage as “Outage 2” in his Direct Testimony. OCS witness Ramas addresses this adjustment in her JAM modeling.

69 only bypassed the opportunity for pre-approval consideration, but also involved a  
70 “self-dealing” affiliate transaction with BHER, at questionable pricing. Since the  
71 Company bypassed the pre-approval process, there was limited initial stakeholder  
72 review for another intermittent resource addition that will cost a considerable  
73 amount of money, [REDACTED] million.

74 **Q. WHAT PROTECTIONS ARE AFFORDED RMP FOR PROJECTS THAT**  
75 **ARE PRE-APPROVED?**

76 A. There are two major protections after a project is pre-approved and without those,  
77 RMP has to be aware it assumes the risk of its investment without the guarantee of  
78 cost recovery. The first protection is that the need for and prudence of a project is  
79 established at the start of the project, and that does not have to be proved again after  
80 the project investment has been made and cost recovery is sought. The second  
81 protection is that project budgets, having been pre-approved, would not be subject  
82 to after the fact audits to verify the reasonableness of costs spent as long as RMP  
83 does not exceed the pre-approved budget. Only costs in excess of the approved  
84 budgets would be subject to review. These protections serve not only to streamline  
85 the ratemaking process, but also to protect RMP from the risk that its investment  
86 could be disallowed in rates. These protections also benefit customers by providing  
87 parties the opportunity to review the utility’s plans and either support or oppose  
88 them before ground is broken and money has been spent.

89 **Q. WHAT IS RMP’S POSITION GIVEN IT HAS NOT SOUGHT PRE-**  
90 **APPROVAL FOR PRYOR MOUNTAIN?**

91 A. RMP argues that the Pryor Mountain project is no different from pre-approved  
92 projects and should be treated as if it had been approved already. RMP claims that  
93 the only issue that should be considered in determining whether its decision was  
94 prudent is whether the decision to go forward with the project was reasonable at the  
95 time the decision was made.<sup>9</sup> This is the “reasonable person standard,” in other  
96 words, would a reasonable person have made the same decision that PacifiCorp  
97 (and its parent Company, Berkshire Hathaway) made at the time the decision was  
98 reached.

99 RMP’s proposal not only ignores the pre-approval process, but it also  
100 ignores the fact that this regulatory paradigm has been in place for the past 15 years.  
101 The new Pryor Mountain project amounts to a [REDACTED] million dollar investment, an  
102 amount comparable to the cost of building RMP’s most recent major thermal plants  
103 (Chehalis at \$356 million, Currant Creek at \$355 million, Lake Side 1 at \$388  
104 million, and even Lake Side 2 at \$639 million).<sup>10</sup> I have been involved with RMP’s  
105 major thermal plant acquisitions including Current Creek, Lake Side and Chehalis.  
106 I was also involved in Docket Nos. 17-035-39/40, in which RMP sought and  
107 received pre-approval to repower existing wind projects, and to construct or procure  
108 four new wind resources with a capacity of 860 MW.<sup>11</sup> In every instance, RMP  
109 brought its plan to buy or construct these major new resources to the PSC first and  
110 only finalized the acquisitions after approval was granted. Additionally, RMP is

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<sup>9</sup> Rebuttal Testimony of Mr. Rick Link at l. 80.

<sup>10</sup> PacifiCorp 2016 FERC Form 1, included in Mr. Hayet’s Exhibit OCS 4.1S.

<sup>11</sup> In that instance approval was granted on June 22, 2018, pursuant to Utah Code Ann. § 54-17-302, regarding making a “significant energy resource decision.”

111 currently at the early stages of conducting a competitive solicitation in PacifiCorp's  
112 2020 All Source Request for Proposals ("RFP") process, in which additional  
113 intermittent renewable resources could be acquired based on a pre-approval  
114 process.

115 **Q. WHY IS PRE-APPROVAL IMPORTANT?**

116 A. The fundamental reason for pre-approval has been to avoid the controversy of  
117 trying to apply the "reasonable person" standard on an after the fact basis. This  
118 paradigm has proven to be less than satisfactory through the years. In many of the  
119 cases that I referenced above, it was hard enough to determine at the time if a  
120 particular resource or plan was the best alternative. Indeed, there was substantial  
121 disagreement as to whether the various approved wind projects in Docket Nos. 17-  
122 035-39/40 were economical. Now RMP wants the PSC to pretend it is mid-2019  
123 and undertake the same exercise, based solely on what it says was known by RMP  
124 at that time. This is all to be undertaken in the midst of a general rate case where  
125 there are dozens of other issues and a hard statutory time limit in place. In contrast,  
126 the Energy Vision 2020 pre-approval docket 17-035-40 took about a year to  
127 complete from the initial filing to the PSC's Order.<sup>12</sup>

128 In effect, RMP contends it deserves the same rate treatment as if Pryor  
129 Mountain had been pre-approved, despite the now uncertain in-service date, the  
130 increased project cost, and the fact that all other economic variables are in a state  
131 of heightened uncertainty due to the COVID 19 pandemic. Furthermore, Pryor

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<sup>12</sup> The docket was filed on June 30, 2017 and the order was issued on June 22, 2018.

132 Mountain is considerably more expensive than other similar wind resources that  
133 were acquired through a competitive solicitation process.

134 If the PSC approves RMP's proposal for Pryor Mountain, it would be  
135 tantamount to giving RMP the green light to do the same thing again. The PSC  
136 should be wary of endorsing this policy proposed by RMP to select some projects  
137 for pre-approval, and ignore pre-approval in other cases when the Company finds  
138 it inconvenient.

139 **Q. RMP ARGUES THE UTAH STATUTE MAKES A REQUEST FOR PRE-  
140 APPROVAL *OPTIONAL* FOR THE UTILITY. PLEASE COMMENT.**

141 A. As discussed earlier, Ms. Steward asserted this by noting, "the Company opted not  
142 to seek pre-approval," and she supported the Company's decision by stating:<sup>13</sup>

143 ....there is no guarantee that a Commission decision will be issued in 180  
144 days as provided in the statute or that a request to treat a matter in an  
145 expedited manner can always be granted. Thus, the Company has to weigh  
146 voluntarily requesting a resource decision from the Commission against a  
147 time-sensitive nature of a particular project.

148 While Ms. Steward is correct that the statute makes pre-approval optional, the  
149 fact that RMP did not avail itself of the protections afforded by the pre-approval  
150 process places a significant burden of proof on RMP to prove that its decision  
151 making process was prudent, which it has failed to do.

152 **Q. WHAT LED YOU TO CONCLUDE THAT PRYOR MOUNTAIN IS NOT A  
153 PRUDENT ACQUISITION FOR CUSTOMERS?**

154 A. There are a number of factors that led me to conclude this, including the fact that  
155 no demonstration of a critical capacity need was submitted as part of a pre-approval  
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<sup>13</sup> Rebuttal Testimony of Ms. Joelle Steward at l. 297.



157 process nor as part of this proceeding, the acquisition is based on an affiliate  
158 transaction, and the project is more expensive than other recently acquired  
159 resources. Therefore, I believe the decision to acquire Pryor Mountain is imprudent  
160 and will not likely lead to RMP acquiring the least cost set of resources. With  
161 regard to cost, PacifiCorp recently received approval to acquire and repower several  
162 wind projects at lower cost,<sup>14</sup> and RMP's economic analysis supporting the  
163 acquisition of Pryor Mountain is not compelling.

164 **Q. MS. STEWARD'S STATEMENT ABOVE ASSERTS THERE WAS NO**  
165 **GUARANTEE THE PSC WOULD GRANT EXPEDITED**  
166 **CONSIDERATION OF PRYOR MOUNTAIN. HAVE THERE BEEN ANY**  
167 **EXAMPLES OF THE PSC GRANTING APPROVAL OF A RESOURCE**  
168 **ACQUISITION ON AN EXPEDITED BASIS?**

169 A. Yes, the Chehalis acquisition, which was approved in Docket No. 08-035-35, was  
170 an example of a resource PacifiCorp sought based on pre-approval on an expedited  
171 basis. It took just four months from the time RMP filed its application to the date  
172 the PSC issued its order in that docket.<sup>15</sup> As to Ms. Steward's point that the PSC  
173 might not have granted a request for an expedited proceeding, I would note that in  
174 the 22 years that I have been involved in Utah proceedings, I cannot recall a time  
175 that the PSC did not attempt to reasonably accommodate RMP's requests such as

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<sup>14</sup> See the discussion in Mr. Hayet's Direct Testimony, beginning at l. 645, which explains that Pryor Mountain was [REDACTED] per unit of capacity than any of the other new wind projects recently acquired, which were in fact pre-approved.

<sup>15</sup> PSC Order, August 1, 2008, Docket No. 08-035-35, Acquisition of the Chehalis Combined Cycle Plant, In Re: In the Matter of the Request of Rocky Mountain Power for a Waiver of the Solicitation Process and for Approval of Significant Energy Resource Decision.

176 this, and there is no reason to suspect it would not have done so with regard to an  
177 expedited request for Pryor Mountain. Had the PSC rejected such a request, RMP  
178 could have still proceeded on the same path that it is on now. However, RMP did  
179 not even attempt to do that.

180 **Q. HOW DOES PRE-APPROVAL ADDRESS THE ISSUE OF THE FINAL**  
181 **PROJECT COST?**

182 A. The pre-approval process applies not only to the decision to undertake the new  
183 project (“planning prudence”), but it also “certifies” the level of expected costs  
184 found to be reasonable (“construction prudence”). Indeed, the pre-approval  
185 proceeding provides the PSC the opportunity to review the reasonableness of  
186 construction costs. By skipping that part of the process, RMP simply contends  
187 whatever amounts it actually spent were reasonably incurred. There is already  
188 prima-facie evidence that the costs are excessive – Pryor Mountain costs more  
189 [REDACTED] than the peer group of pre-approved new wind projects on a dollars per  
190 megawatt of installed capacity basis.<sup>16</sup> No RMP witness disputed this in rebuttal  
191 testimony. We also know now that the unapproved estimated costs will be even  
192 more expensive (by about [REDACTED] million)<sup>17</sup> than RMP expected when it reached its  
193 “go-forward” decision in 2019.

194 In the case of a pre-approval, RMP knows the cost that has been approved,  
195 and often reporting/monitoring requirements are established during the  
196 construction period. These regulatory practices act as a “brake” on excessive

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<sup>16</sup> See the discussion in Mr. Hayet’s Direct Testimony, beginning at l. 645.

<sup>17</sup> Rebuttal Testimony of Mr. Robert Van Engelenhoven at l. 53.

197 spending, waste or “gold plating.” Absent preapproval, there is no such mechanism  
198 to restrain cost, and without a full blown construction cost audit, there is no  
199 evidence supporting RMP’s claim that the actual project costs were prudently  
200 incurred. There is, however, evidence that suggests the contrary is true, given the  
201 project cost overrun, and the fact that the cost of Pryor Mountain exceeds the other  
202 recently acquired wind projects on a dollars per megawatt basis.

203 **Q. MR. LINK ASSERTS THE PRYOR MOUNTAIN PROJECT IS**  
204 **NECESSARY AS HE STATES, “THE COMPANY HAS A NEED FOR NEW**  
205 **RESOURCES TO MEET NEAR-TERM ENERGY AND CAPACITY**  
206 **NEEDS.”<sup>18</sup> DOES THIS MEAN THE COMPANY HAS A CRITICAL NEED**  
207 **FOR CAPACITY BEGINNING IN 2021.**

208 **A.** No it does not, and Mr. Link provided no support that such a critical need exists,  
209 particularly in his response to DPU Witness Joni Zenger’s statement that “...as  
210 opposed to traditional resource acquisitions, the Company’s development of the  
211 Project does not result from a near-term energy, capacity, or Renewable Portfolio  
212 Standard compliance need.”<sup>19</sup> Mr. Link’s response that “the Company’s recent IRP  
213 shows there is a need for new resources to meet near-term energy and capacity  
214 needs,” should not be interpreted to mean the Company has a critical need for  
215 capacity that justifies rushing into the acquisition of Pryor Mountain. It is  
216 indisputable that the long-term history of the PacifiCorp system has been that it has  
217 always had a near-term need for capacity, and it has always assured regulators that

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<sup>18</sup> Rebuttal Testimony of Mr. Rick Link at l. 173.

<sup>19</sup> Direct Testimony of Dr. Joni Zenger, at l. 277.

218 Front Office Transactions (“FOTs”) could be relied on to satisfy its near-term  
219 needs. Table 8.19 of the 2019 IRP actually indicates that PacifiCorp’s Preferred  
220 Portfolio includes 508 MW of FOTs in order to meet its capacity needs. Pryor  
221 Mountain would not change the amount of FOTs needed by a significant amount.  
222 When the capacity contribution of wind value from the 2019 IRP (23%) is taken  
223 into consideration, the 240 MW Pryor Mountain project actually only affects the  
224 amount of FOTs needed in 2021 by 55.2 MW (240 MW \* 23%), which means  
225 PacifiCorp will still need to depend on FOTs to satisfy a significant amount of its  
226 resource needs.<sup>20</sup> Pryor Mountain is simply not needed to satisfy a critical capacity  
227 need. Furthermore, if its capacity need situation were so desperate, RMP could  
228 have made its case that it had a critical need for capacity in an expedited pre-  
229 approval request.

230 **Q. MR. LINK DEFENDED HIS NET BENEFIT ANALYSIS AND DISAGREES**  
231 **WITH THE OCS SUGGESTION THAT THE PSC SHOULD FOCUS MORE**  
232 **ON THE LOW NATURAL GAS, NO CARBON CASE RESULTS. PLEASE**  
233 **COMMENT.**

234 A. Mr. Link is unreasonable in suggesting the LN (low-gas, zero CO<sub>2</sub>) case is the  
235 “most conservative, worst-case scenario”, which is an attempt to signal to any  
236 evaluator that they should disregard the results of that case. This is essentially the  
237 case that has existed for the past ten years, and there is no reason to expect that  
238 natural gas will suddenly increase sharply in price (other than the increases that  
239 would be expected to occur in a low gas forecast), or that CO<sub>2</sub> taxes would be

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<sup>20</sup> See Table N. 1 in Appendix N of PacifiCorp’s 2019 IRP, p. 401, for the 23% capacity value of wind.

240 implemented any time soon. With regard to CO<sub>2</sub>, the PSC should take note of the  
241 fact that RMP has now been modeling carbon taxes in its IRP and other studies  
242 starting no later than the 2008 IRP. For example, the 2008 IRP included a high  
243 carbon tax case that started at \$100/ton beginning in 2013.<sup>21</sup> RMP has also modeled  
244 or considered other mechanisms (including carbon emission standards and PTCs)  
245 since at least 2003.<sup>22</sup> With each passing IRP, carbon tax scenarios have been  
246 modeled but the start date has been pushed out later and later. Aside from periodic  
247 congressional PTC renewals (and the concomitant sunset provisions) no carbon tax  
248 legislation has passed as yet, and this may not change any time soon.

249 However, the OCS recognizes that in the past Congress has addressed  
250 carbon emissions in a variety of other ways including allowing PTCs, which has  
251 been a means of encouraging the installation of zero CO<sub>2</sub> emitting resources. The  
252 Company's decision making process assumed PTCs would never be extended, and  
253 at the same time it assumed there is a high probability that a carbon tax would be  
254 implemented in the near future. History supports the opposite conclusion, in other  
255 words, that PTCs could be extended. It is only this one assumption that PTCs would  
256 never be extended that supported RMP's decision to embark on a [REDACTED] million  
257 dollar bet on the Pryor Mountain project. If RMP had assumed there was a  
258 reasonable chance that PTCs would be extended or new ones implemented in the

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<sup>21</sup>[www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiw183Mxs3sAhXDtIkKHazIDPkQFjAAegQIBhAC&url=https%3A%2F%2Fwww.utc.wa.gov%2F\\_layouts%2F15%2FCasesPublicWebsite%2FGetDocument.ashx%3FdocID%3D5%26year%3D2010%26docketNumber%3D100170&usg=AOvVaw1llVoknatIyUI61zDBJZCc](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiw183Mxs3sAhXDtIkKHazIDPkQFjAAegQIBhAC&url=https%3A%2F%2Fwww.utc.wa.gov%2F_layouts%2F15%2FCasesPublicWebsite%2FGetDocument.ashx%3FdocID%3D5%26year%3D2010%26docketNumber%3D100170&usg=AOvVaw1llVoknatIyUI61zDBJZCc)

<sup>22</sup> Oregon Public Utility Commission, Docket No. LC-31, Final Order, August 25, 2003, at pages 5-7, <https://apps.puc.state.or.us/edockets/docket.asp?DocketID=9930>.

259 future (or that it was at least as likely as carbon taxes being implemented), there  
260 would have been no need for it to have sought the alleged “time limited  
261 opportunity” in the first place. In effect, RMP is saying it needed to rush into Pryor  
262 Mountain absent prior regulatory approval because it was absolutely certain PTCs  
263 would never be extended or available again in the future, while at the same time, it  
264 was certain that carbon taxes were reasonably likely to be implemented. While  
265 both mechanisms support the same policy goals, only one, PTCs, has ever been  
266 approved by Congress.

267 **Q. IS THERE ANY OTHER EVIDENCE THAT PTCS COULD BE**  
268 **EXTENDED AND THAT CO<sub>2</sub> TAX POLICY MAY NOT BE**  
269 **IMPLEMENTED ANY TIME SOON.**

270 A. Yes, in an evaluation of energy policies that would be implemented under the next  
271 administration, the Atlantic Council<sup>23</sup> Global Energy Center concluded that not  
272 even a Democratic Administration would likely be able to implement a carbon tax  
273 policy even with a clean sweep in the upcoming election, as it stated:<sup>24</sup>

274 ...it is not at all clear that there exists a committed constituency for a  
275 carbon pricing mechanism or that the American public would broadly  
276 support such a measure.  
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<sup>23</sup> The Atlantic Council considers itself, a “nonpartisan organization that galvanizes US leadership and engagement in the world, in partnership with allies and partners, to shape solutions to global challenges,” <https://www.atlanticcouncil.org/about/>.

<sup>24</sup> “What’s at Stake for Energy in the 2020 Election: An Update”, Issues Brief, David L. Goldwyn and Andrea Clabough, August 2020, [https://www.atlanticcouncil.org/wp-content/uploads/2020/08/AC\\_GEC\\_ELECTBRIEF081420\\_INT-1.pdf](https://www.atlanticcouncil.org/wp-content/uploads/2020/08/AC_GEC_ELECTBRIEF081420_INT-1.pdf)

278                   There have been other bills introduced in Congress since the start of 2019  
279                   supporting the continuation of production tax credits. One bill that would apply to  
280                   renewable and other technologies.<sup>25</sup>

281                   ....calls for moving past tax credits for specific clean energy sources like  
282                   solar and wind and toward a technology-neutral tax credit that applies to  
283                   sources that are 35% cleaner than average and increases the closer the  
284                   source is to 100% CO2-free.  
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286   **Q.    IN DISCUSSING PRYOR MOUNTAIN, MR. VAN ENGELENHOVEN**  
287   **STATES “AS DISCUSSED BY COMPANY WITNESS MR. RICK T. LINK,**  
288   **EVEN WITH THE INCREASED COSTS AND DELAYED BENEFITS, THE**  
289   **PROJECT STILL DELIVERS SIGNIFICANT BENEFITS TO**  
290   **CUSTOMERS”.**<sup>26</sup> **DID MR. LINK PROVIDE SUCH EVIDENCE?**

291   **A.**    No, Mr. Link presented no new evidence in his rebuttal testimony of the net benefits  
292           of the project accounting for the 5% increase in the Pryor Mountain project cost or  
293           the reduction in the present value benefits due to the project’s construction delays.  
294           The only evidence Mr. Link discusses in his testimony was presented in his Table  
295           4 on page 16 of his direct testimony, which contains results for a Medium  
296           Gas/Medium CO<sub>2</sub> case, and for a Low Gas/Low CO<sub>2</sub> case. I continue to support  
297           the position that given that no competitive solicitation was performed and no pre-  
298           approval sought, and given current conditions, the PSC should focus its

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<sup>25</sup> Election 2020: Climate Policy Faces a Tough Road Through Congress Regardless of Electoral Outcomes”, Utility Dive, October 26, 2020, [https://www.utilitydive.com/news/power-shift-climate-policy-faces-a-tough-road-through-congress-regardless/587245/?utm\\_content=ad-EDIT\\_NOTE&utm\\_term=26436&utm\\_source=Sailthru&utm\\_medium=email&utm\\_campaign=Issue:%202020-10-26%20Utility%20Dive%20Newsletter](https://www.utilitydive.com/news/power-shift-climate-policy-faces-a-tough-road-through-congress-regardless/587245/?utm_content=ad-EDIT_NOTE&utm_term=26436&utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202020-10-26%20Utility%20Dive%20Newsletter)

<sup>26</sup> Rebuttal Testimony of Robert Van Engelenhoven beginning at l. 68.

299 consideration on the LN case, which shows that benefits range from, in fact, a  
300 negative \$1 million value to a small positive value of just \$7 million. Had Mr. Link  
301 actually performed a new analysis, as Mr. Van Engelenhoven suggested,  
302 considering the project delay and the [REDACTED] million increase in project cost, the net  
303 benefits would have been even less.

304 **Q. MR. HEMSTREET SUPPORTS RMP'S POSITION THAT THE**  
305 **PROCUREMENT OF WTG'S FROM BHER WAS AT A FAIR PRICE**  
306 **BECAUSE THE WTG'S WERE PURCHASED AT COST.<sup>27</sup> DID RMP**  
307 **PROVIDE REASONABLE SUPPORT FOR THE COST PAID TO ITS**  
308 **AFFILIATE?**

309 A. No. Mr. Hemstreet claimed that there is no market for "safe harbor turbines because  
310 safe harbor equipment cannot be transferred from one consolidated taxpayer to  
311 another and still retain its ability to qualify a wind project as having begun in a  
312 certain year."<sup>28</sup> I do not find this supportive of RMP's position that it paid a fair  
313 price for the WTGs. If there was no market for the turbines that were sitting in  
314 storage,<sup>29</sup> then paying BHER its book cost suggests the affiliate was able to avoid  
315 a write-down of the value of the asset. From a ratemaking standard perspective,  
316 purchases from an affiliate are typically required to be priced at the lower of cost  
317 or market. In this instance that is not the case, and the Company provided no  
318 evidence to substantiate its claim that paying cost to its affiliate was appropriate.  
319 RMP's claims that there was no market for Safe Harbor WTGs and only BHER

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<sup>27</sup> Rebuttal Testimony of Timothy Hemstreet, ln. 253.

<sup>28</sup> Rebuttal Testimony of Timothy Hemstreet, ln. 248.

<sup>29</sup> Rebuttal Testimony of Mr. Robert Van Engelenhoven, ln. 142.



320 could provide them, seems all too convenient. It also makes one wonder whose  
321 best interests PacifiCorp was trying to serve with regard to BHER's WTGs that  
322 were sitting in storage.

323 **Q. DO YOU HAVE ANY FINAL COMMENTS REGARDING THE PRYOR**  
324 **MOUNTAIN PROJECT?**

325 A. Yes. RMP has focused on the presumed economic benefits of the Pryor Mountain  
326 project, but has not proven that this project was needed to meet a critical need for  
327 capacity, or that it was the least cost option to satisfy the Company's requirements.  
328 There are in fact a great many projects that could be acquired that might provide  
329 *some* ratepayer benefit. However, this one conveniently provided one of  
330 PacifiCorp's affiliates the ability to find a home for some unused WTGs it had in  
331 storage. One cannot lose sight of the fact that even if the utility has significant  
332 access to funds (such as from a parent Company looking for places to invest  
333 otherwise idle cash on its balance sheet or from the ability to issue debt at  
334 historically low interest rates) ratepayers do not have unlimited needs for new  
335 utility resources. As a result, it is vitally important the PSC require utilities to  
336 follow a disciplined approach to system expansion, rather than to allow the utility  
337 to increase investor profits by chasing after speculative benefits from "time limited  
338 opportunities", particularly ones involving non-competitively sourced affiliate  
339 transactions. The OCS continues to recommend that the PSC should find that the  
340 Company's decision to acquire Pryor Mountain was imprudent and disallow the  
341 costs.

342

343 **LONG LAKE SIDE 2 OUTAGE**



Further, it is even possible that [REDACTED]  
[REDACTED]. That event is discussed  
in the Confidential Attachment to OCS 19.7, and it is [REDACTED]  
[REDACTED]

**Q. PLEASE COMMENT ON THE [REDACTED] OUTLINED  
IN WITNESS RALSTON’S CONFIDENTIAL EXHIBIT DMR-2R.**

A. That exhibit shows the [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Q. DO YOU HAVE ANY FINAL COMMENTS CONCERNING THIS ISSUE?**

A. Yes. Witness Ralston testified that RMP is still trying to find the cause of the  
outage (now more than a year after the event). He also acknowledges that the  
[REDACTED]  
[REDACTED]. As a result, RMP has hired another expert to perform an additional  
RCA.<sup>35</sup> However the report from this project has been delayed twice. The most  
recent indication is that it will not be available until December, long past the hearing  
date for this case. Consequently, it is simply impossible for RMP to meet its burden  
of proof for cost recovery of an outage of this magnitude. Given the [REDACTED]  
[REDACTED]  
[REDACTED], the PSC should not allow

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<sup>34</sup> The response to OCS 19.7 included a response to OCS 2.124 from Docket 11-035-200. See pdf page 145.  
<sup>35</sup>Rebuttal Testimony of Mr. Dana Ralston at l. 88.

394 recovery of the cost of this outage at the present. We do recommend that RMP be  
395 allowed to seek recovery in a future GRC if the new RCA provides evidence that  
396 the outage was not caused by negligence, imprudence, or improper maintenance  
397 practices.

398 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

399 **A.** Yes, it does.

400