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Division of Public Utilities

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TO: Public Service Commission

FROM: Division of Public Utilities
Philip Powlick, Director,
Artie Powell, Energy Manager
Charles Peterson, Technical Consultant

DATE: January 13, 2010

RE: PacifiCorp Annual Acquisition Compliance Report, Docket No. 09-999-01/05-035-54.

I. ISSUE

In a letter dated June 1, 2009, PacifiCorp dba Rocky Mountain Power (Company) filed its annual status report (Report) of the status of the Acquisition commitments made pursuant to Commitment 49 of the Stipulation in Docket No. 05-035-54. The Report covers the status of the commitments as of March 31, 2009, roughly the third anniversary of the Acquisition. This Memorandum provides comments by the Division of Public Utilities (Division) on the status of PacifiCorp's Acquisition Commitments.

II. RECOMMENDATION (Improvements to subsequent years' Reports)

Based upon the following review, the Division believes that PacifiCorp is generally in compliance with its Acquisition commitments. The Division recommends that the Company make improvements to future Reports by including any studies or documents that have been created during the preceding year that are the basis of compliance with the Acquisition commitments, or alternatively, make sure the Division had been previously provided with such studies or other documents.

III. COMMITMENTS REVIEW

Since the close of the Acquisition in March 2006, the Division has complied with the various general and Utah-specific commitments. A number of the commitments cannot be documented

since they would only apply if some event occurs;¹ others have little meaning within the context of the Acquisition;² and many commitments were essentially one-time events that occurred in the first two years following the Acquisition.³ The remaining commitments are on-going, for which, in the Division's view there has been compliance and, with one exception (for U26, see below), over the past three years no other interested parties have raised a compliance issue.

The compliance for Commitment U26 (which had to do with an arrearage study for low-income customers along with recommendations for arrearage mitigation) was challenged by advocates for low-income customers. This challenge was dealt with in Docket No. 07-2035-02 and was eventually resolved as a result of the Commission's acknowledgement dated May 27, 2008.

The Division made a data request asking for further information on the compliance for nine commitments, or subparts of commitments as reported in the Company's June 1, 2009 status report. The following summarizes the responses of the Company to these data requests:

Commitment 25: Last year the Company indicated that it was suspended for non-compliance to ISO 14001 standards based on an audit on February 15, 2008. For this year, the Company indicates that it is in compliance pursuant to audits conducted in February 2009. The Company has provided copies of the audits to the Division. (Response to DPU Data Request 1.1)

Commitment 27: Commitment 27 generally committed the Company to continue to consult regional advisory boards to receive local views on community issues. The Division asked for and received the names of the Utah advisory board. (Response to DPU Data Request 1.2)

Commitment 35, parts b, c, and d: Commitment 35 relates to certain projects the Company promised to engage in to improve system reliability. In response to Company statements about expenditures made, the Division requested documentation of the details of certain expenditures. The Company provided the requested details. (Response to DPU Data Request 1.3)

Commitment 42, part a: In this Commitment, the Company voluntarily reports to the federal Environmental Protection Agency (EPA) its emissions of sulfur hexafluoride (SF₆). The Division requested and received a copy of the Company's report to the EPA. (Response to DPU Data Request 1.4)

Commitment 42, part b: MEHC and PacifiCorp committed to forming a "global warming working group." The group met once or twice over two years ago. A draft

¹ For example, see commitments 11, 12, U2, U11, U32, and U42.

² For example, commitments 2, 7, 28, 30, 31 indicate that PacifiCorp will continue to obey the law and honor its contracts. PacifiCorp cites evidence for commitment 19, but it likely would be difficult, in principle, to demonstrate that the Company wasn't in compliance.

³ For example, see commitments 16, 29, 50, 52, 53, U6, U12, U26, U29, U38, and U40.

action plan was circulated and comments on the plan were provided by interested parties. Since the end of 2007, the Division understood that the draft plan was being reviewed by MEHC. The June 1, 2009 Compliance Report indicates that MEHC is still reviewing the plan. The Division asked when MEHC might complete its review. The Company responded that due to certain litigation, MEHC has not finalized its review. No information was provided regarding when such a review might be completed. (Response to DPU Data Request 1.5)

Commitment 43: MEHC and PacifiCorp promised to spend up to \$812 million to install pollution control equipment. The Division asked for an accounting of the projects and costs to date, and the plans for compliance in the future. The Company responded with the information requested. (Response to DPU Data Request 1.6)

Commitment 44, part c: In describing its compliance to Commitment 44c, PacifiCorp referred to “TrakSmart2” as a demand side management tracking and reporting system project. This relates to the Commitment that PacifiCorp collaborate with the MEHC affiliate MidAmerican Energy Company to find additional cost effective DSM programs. The Division asked for and received additional information regarding “TrakSmart2.” (Response to DPU Data Request 1.7)

Commitment 46: The Company committed to supporting community economic development. In its June 1, 2009 compliance report, the Company indicated that it had made several grants to communities within its operating system. The Division asked for and received information regarding these community development grants. (Response to DPU Data Request 1.8).

Utah Merger Commitments U33 and U44: The Company committed to support community renewable energy efforts (U33) and to make wind generation projects a priority in Utah, to the extent it is cost-effective (U44). In its Compliance Report, the Company indicated that it had received some inquiries regarding such projects and was engaged in certain related activities. The Division requested additional information and held a conference call with the Company where Company representatives explained what was included in the Company’s compliance with these commitments. The Division asked for a listing of the projects and received a confidential listing. (Response to DPU Data Request 2.1).

Based upon the review of the data request documents and the Division’s monitoring of the Acquisition commitments since the Acquisition closed, the Division believes that PacifiCorp is substantially in compliance with its Acquisition commitments through March 31, 2009 and has generally made a good faith effort to keep the Division apprised of the Company’s activities related to these commitments.

However, the Company continues to cite studies, documents, or other activities in its compliance reports in support of its compliance with the various Commitments, but does not provide the

supporting studies, documents, or a detailed description of the activities so cited. The Division requests that the Company provide to the Division in advance, or, at least simultaneous with, any future annual compliance reports, any studies or other documents created in the preceding year or descriptions of activities that are used to support ongoing commitment compliance.

cc Dave Taylor, PacifiCorp
Michele Beck, Office of Consumer Services