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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Request for Rehearing of the
PacifiCorp for an Increase in its Rates)	Land and Water Fund of the
and Charges)	Rockies
)	
)	Docket No. 01-035-01

Pursuant to Utah Code Ann. § 63-46b-12 and the Utah Public Service Commission's ("Commission") Report and Order issue September 10, 2001 in the above-captioned proceeding ("September 10, 2001 Order"), the Land and Water Fund of the Rockies ("LAW Fund") request rehearing of the Commission's September 10, 2001 Order.¹

I. Specifications of Error

- 1) The Commission erred in its conclusion that the record was insufficient to find that the demand-side management ("DSM") programs recommended by the Utah

¹ Even though some parties filed their rehearing requests on October 1, 2001, the LAW Fund submits that its Request for Rehearing is timely filed. The Commission stated in the concluding paragraph to its September 10, 2001 Order that an aggrieved party may file written request for review "[w]ithin 30 days of the issuance of this order." *See* September 10, 2001 Order, at 41. This Request for Rehearing has been submitted within this thirty-day timeframe.

Energy Office ("UEO") are the most cost-effective resources available to PacifiCorp ("Company").

- 2) The Commission erred by failing to direct the Company to revise RAMPP to identify all cost-effective DSM.
- 3) The Commission should require the Company to file its interim update to RAMPP prior to the summer 2002 peak season.

II. Argument

The Commission's September 10, 2001 has left the LAW Fund without a clear path forward on how to promote cost-effective DSM in the Company's Utah service territory. Even though the record in this case established a compelling case for additional cost-effective DSM, the Commission declined to order the Company to propose additional DSM programs. Instead, the Commission directed the Company to consider UEO's recommended programs as part of the RAMPP process. Yet, the record in this case establishes that RAMPP, as currently configured, falls short of identifying all cost-effective DSM. The LAW Fund requests that the Commission either direct the Company to revise RAMPP to identify all cost-effective DSM in its next interim update, or it should order the Company to come forward with additional DSM programs.

In the revenue requirements phase of this case, UEO sponsored the testimony of Dr. David Nichols, a national expert on DSM, who presented a detailed, comprehensive analysis of additional cost-effective DSM in Utah. *See, generally*, LAW Fund Post-Hearing Brief, at pp.2-6. Based on the results of his analysis, Dr. Nichols recommends a package of DSM programs that, if implemented, are estimated to pass

both the total resource cost test and rate impact measure test, thereby reducing rates overall. Dr. Nichols explains that his evaluation of the cost-effectiveness of these programs is not contingent upon the dramatic increases in wholesale power prices over the past two years and, as a result, the analysis remains current even though wholesale prices have recently begun to stabilize. Even after a full opportunity for discovery and cross-examination, virtually no substantive objections were raised to the merits of Dr. Nichols' analysis and recommended programs.² In fact, Dr. Richard Anderson, on behalf of the UAE Intervention Group, acknowledges the "effort and professionalism that Dr. Nichols put into his report." Anderson, Tr. (8/1/01), at p.659, lines 22-25.

Yet, the Commission declines to order the Company to implement Dr. Nichols' recommended DSM programs, stating that the "record is insufficient for us to make a definitive finding that the programs outlined in the Tellus report are the most cost-effective resources available to the Company." Sept. 10, 2001 Order, at 39. The LAW Fund respectfully submits that there is more than ample evidence on the record supporting the cost-effectiveness of Dr. Nichols' recommended programs.³ Indeed, what

² With one exception, the parties do not challenge the assumptions and methodologies underlying the specific DSM programs recommended by Dr. Nichols. The Division of Public Utilities ("Division"), in its cross-examination of Dr. Nichols, does raise concerns about Dr. Nichols' assumed penetration rate for evaporative cooling as part of his efficient cooling program. Nichols, Tr. (8/1/01), at p.558-561. Dr. Nichols testifies that he believes his assumed penetration rate is reasonable. *Id.* Dr. Nichols also explains that the economics of his efficient cooling program are so compelling that the programs would still be cost-effective even if his assumption about penetration rates for evaporative cooling proves to be overly optimistic. *Id.* at p.570, line 25 - p.571, line 18.

³ Nor is it evident why a "definitive" finding is even necessary at this preliminary stage. There is ample evidence on the record to justify a Commission order that the Company come forth with the additional DSM programs recommended by Dr. Nichols. At the time the Company comes forth with these additional programs, the Company would also develop, among other things, its own cost-benefit analysis of the recommended programs. To the extent that the Company's own analysis shows that a particular program is not cost-effective -- notwithstanding Dr. Nichols' analysis to the contrary -- the program

is extraordinary about the record in this case is the almost complete absence of any substantive evidence to the contrary.

The Commission does acknowledge that "the findings of the report indicate that ratepayers could benefit from increased investment in DSM." Sept. 10, 2001 Order, at 39. Based on this finding, the Commission orders the Company to "evaluate each program and incorporate cost-effective demand-side resources in the next interim update of the IRP." *Id.* The Commission emphasizes that it is "particularly interested in programs that can cut peak demand," and that "[l]oad control measures may prove particularly promising to cutting costs." *Id.* Yet, the record in this case establishes that RAMPP, as currently configured, will significantly limit the Commission's ability to achieve these objectives. Most notably, RAMPP, under the current assumptions used for RAMPP-6, does not consider load management programs. *See* Hedman, Tr. (8/1/01), at p.630, lines 9-11; Nichols, Tr. (8/1/01), at p.569, lines 20-22. Even among energy efficiency programs, RAMPP-6 falls short of identifying the full potential for energy savings. *See* Nichols, Tr. (8/1/01), at p.569, lines 20-22. The Commission should direct the Company to revise RAMPP to ensure that all cost-effective DSM is identified as part of the next interim update.

The LAW Fund supports a comprehensive, balanced RAMPP process that fully and fairly evaluates all resource alternatives, allows sufficient opportunity for stakeholder participation, and provides relevant and meaningful direction to Company business decisions. To the extent that the Commission's September 10, 2001 Order represents a preference for the evaluation of DSM acquisition through the RAMPP

would simply not be implemented. In addition, the Company would have the flexibility to modify the characteristics and scope of the recommended programs to ensure that they

process, the LAW Fund fully supports that policy -- *provided* that supply-side resource acquisitions are held to the same standard. It is the LAW Fund's understanding that discussions are currently underway about potential cost recovery treatment for additional supply-side resources to meet summer peak demand, but it is not clear whether these discussions are taking place as part of the RAMPP process. The LAW Fund recommends that the Commission direct the Company, as part of its interim update to RAMPP, to evaluate the supply-side resource alternatives under consideration alongside the DSM programs considered in the Tellus Report to identify the most cost-effective alternatives for meeting the Company's peak resource needs.

As a final matter, the Commission should clarify the timing and scope of the interim update to RAMPP. *See* Sept. 10, 2001 Order, at 39. The DSM programs identified in the Tellus Report have the potential to reduce the 2002 summer peak in a cost-effective manner while minimizing the Company's exposure to potentially volatile wholesale power costs and natural gas fuel costs. To afford adequate time for stakeholders review and for the Company to develop and implement additional DSM programs identified as cost-effective, the LAW Fund recommends that the Commission establish a February 1, 2002 deadline for the filing of the interim update to RAMPP. However, because it may not be feasible for the Company to come forth with a completely new RAMPP within that timeframe, the LAW Fund suggests that the Commission direct the Energy Efficiency Advisory Group to determine how RAMPP-6 may be modified to more accurately evaluate the cost-effectiveness of the programs considered in the Tellus Report.

are appropriately designed for its service territory.

III. Conclusion

WHEREFORE, for the reasons stated herein, the LAW Fund requests that the Commission grant its request for rehearing of its September 10, 2001 order.

Respectfully Submitted,

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October 9, 2001