



## The Land and Water Fund of the Rockies

May 6, 2002

Julie P. Orchard, Commission Secretary  
Utah Public Service Commission  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City UT 84111

RE: Docket No. 01-035-01  
Comments of the Land and Water Fund of the Rockies on PacifiCorp's  
April 1, 2002 DSM Implementation Plan

Dear Commissioners:

The Land and Water Fund of the Rockies ("LAW Fund") submits the following comments on the April 1, 2002 demand-side management ("DSM") implementation plan ("DSM Implementation Plan"), filed by PacifiCorp, dba Utah Power & Light Company ("Company"), in response to the Utah Public Service Commission's ("Commission") October 29, 2001 Order on Reconsideration of DSM Issues in Docket No. 01-135-01 ("October 29, 2001 Order").

### Summary of LAW Fund Comments

The DSM Implementation Plan does not comply with the Commission's September 10, 2001 and October 29, 2001 Orders. Notably, it does not provide an interim IRP evaluation of the demand-side management ("DSM") program options using a revised RAMPP-6 or preliminary RAMPP-7 model. The LAW Fund requests that the Commission, once again, order the Company to conduct an interim IRP evaluation of the additional DSM program options using a revised RAMPP-6 or preliminary RAMPP-7 model.

While the April 1, 2002 DSM Implementation plan only includes modest proposals for new DSM program offerings, the Company has since taken steps that may help remedy some of these shortcomings. Since the Company filed its DSM Implementation Plan, the LAW Fund, PacifiCorp and Utah Energy Office ("UEO") reached a letter agreement in a separate docket whereby the Company agreed, among other things, to work with the Energy Efficiency Advisory Group on analyzing six additional DSM program options. The LAW Fund requests that the Commission acknowledge this commitment on the part of the Company in its order on the DSM Implementation Plan. However, it is the LAW Fund's understanding that the Company does not intend to evaluate any additional DSM program options through an interim IRP evaluation but rather plans to wait until it completes the RAMPP-7 biennial report. Thus, it is imperative that the Commission order the Company to come into compliance with its September 10, 2001 and October 29, 2001 Orders and conduct an interim IRP evaluation of additional DSM program options *prior to* the filing of the RAMPP-7 Report. To simplify the process, the LAW Fund recommends that the interim IRP evaluation focus on the six DSM program options to be analyzed by the Energy Efficiency Advisory Group.



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## Background

In the Company's last general rate case (Docket No. 01-035-01), the UEO sponsored the testimony of Dr. David Nichols on the potential for additional cost-effective DSM in the Company's Utah service territory. Dr. Nichols based UEO's recommendations for additional DSM options on a March 2001 report commissioned by the Energy Efficiency Advisory Group, entitled *An Economic Analysis of Achievable New Demand-Side Management Opportunities in Utah* ("Tellus Report"). UEO, along with the LAW Fund, recommended that the Commission order the Company, in consultation with the Energy Efficiency Advisory Group, to evaluate and, if cost-effective, implement additional DSM programs based on the Tellus Report recommendations.

The Commission, in its September 10, 2001 Report and Order, declined to order the Company to evaluate and implement additional DSM programs outside the integrated resource planning ("IRP") process. However, the Commission did state its expectation that the Company would provide an interim IRP report evaluating additional DSM program options:

The Commission will not order the Company to propose new DSM programs at this time. 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. However, the Commission notes the findings of the report indicate that ratepayers could benefit from increased investment in DSM. *The Company should evaluate each program and incorporate cost-effective demand-side resources in the next interim update of the IRP.*

\* \* \*

The IRP guidelines require that the Company bring forth the least-cost resources and implement them in a timely fashion. Sept. 10, 2001 Order, at p.40 (emphasis added).

On October 9, 2001, The UEO and LAW Fund filed separate requests for rehearing and clarification of the Commission's September 10, 2001 Order. The UEO requested, among other things, that the Commission clarify the timeframe for the filing of the next interim update of the IRP. Likewise, the LAW Fund raise several issues, including a request for Commission clarification of the deadline for filing an interim IRP evaluation of additional DSM program options. Both UEO and LAW Fund expressed concern that the interim IRP evaluation take place in time for additional cost-effective DSM programs to be implemented prior to the summer 2002 peak. *See, generally*, October 29, 2001 Order, at pp.1-2 (summarizing the LAW Fund and UEO positions). On October 23, 2001, the Company filed a reply to the UEO and LAW Fund requests, asserting, among other things, that further IRP evaluation of additional DSM program options should not be due until the December 31, 2002 filing of the RAMPP-7 Report. *See id.*, at p.2.

In its October 29, 2001 Order, the Commission agreed with the UEO's and LAW Fund's requests for clarification, stating that:

The Commission finds merit in the parties' request for reconsideration and clarification. Our original order specified that the Company would evaluate each program and incorporate cost-effective demand-side resources in the next interim report. We intended the Company to evaluate the DSM programs discussed in the Tellus Report *and we expected that the Company would file an interim report before the filing of the biennial report of RAMPP-7 due December 31, 2002.* We

based this intention on the Company's stated desire to revamp the RAMPP process as enunciated in its RAMPP-6 report. Oct. 29, Order, at p.3 (emphasis added).

To illustrate how this interim IRP evaluation could take place, the Commission quoted RAMPP-6, in which the Company stated:

PacifiCorp recommends that less focus be placed on the biennial report generation and more focus placed on interim updates and scenario modeling. ... One option to the current IRP process would be periodic and perhaps quarterly IRP advisory group meetings. Prior to and at these meetings the advisory group members could submit scenarios that they would like to see modeled and reported at the meeting. The Company feels that this approach would provide more real time information and would have a higher value both to the interested parties and the Company. October 29, 2002 Order, at p.3 (*citing* RAMPP-6 Report, at p.18).

On January 29, 2002, the LAW Fund filed comments in Docket No. 01-035-37 on the Company's application for a certificate of public convenience and necessity for the proposed 120 MW gas-fired peaking facilities at the Gadsby site.<sup>1</sup> The LAW Fund objected that the Company was proceeding with the construction of additional supply-side resources without having first provided the interim IRP evaluation of additional DSM programs called for in the Commission's September 10, 2001 and October 29, 2001 orders:

[T]he LAW Fund ... is concerned that Commission approval of this Application [for approval of Gadsby] not undermine the Company's obligations with respect to the implementation of additional cost-effective [DSM] programs under the Commission's [October 29, 2001 Order].

\* \* \*

[T]he Company has not yet presented the revised IRP analysis to the Energy Efficiency Advisory Group or to the Commission. Rather, it appears that the Company's IRP analysis of DSM relied on in its Application [for approval of Gadsby] is based on the previous RAMPP-6 analysis that the Commission already found to be inadequate in its October 29, 2001.

\* \* \*

The LAW Fund is concerned that the Company may create a self-fulfilling prophecy with respect to the adequacy of DSM to meet a significant portion (if not all) of its summer 2002 peak resource needs. If the Company waits until the filing of its April 1, 2002 implementation plan to present its IRP evaluation of additional demand-side resources, then it may artificially create a situation in which it will not have sufficient lead-time to design and implement additional DSM programs in time for the summer 2002 peak.<sup>2</sup>

On February 20, 2002, several members of the Energy Efficiency Advisory Group (LAW Fund, Southwest Energy Efficiency Project ("SWEEP"), Salt Lake Community Action Project, Utahns for an Energy-Efficient Economy and Wasatch Clean Air Coalition) sent an e-mail letter to the

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<sup>1</sup> As the LAW Fund explained in its January 29, 2002 letter, it did not formally intervene in the Gadsby proceeding because it did not receive written or electronic notice of the filing of the application or of the hearing. The LAW Fund only found out about the hearing after the fact through informal conversations with another stakeholder on a separate issue. See LAW Fund January 29, 2002 Letter, at p.1 (copy attached as Attachment A).

<sup>2</sup> LAW Fund January 29, 2002 Letter (citations omitted) (copy attached as Attachment A).

Company expressing their concerns with the pace with which the Company was evaluating additional DSM program options. The signatories to the letter noted that:

So far PacifiCorp has not presented the Energy Efficiency Task Force with any analyses of [the Tellus Report recommendations, SWEEP program recommendations] or other program options in response to the Commission's October 29, 2001 Order, using either a modified RAMPP-6 or preliminary RAMPP-7 model.<sup>3</sup>

On April 1, 2002, the Company filed its DSM Implementation Plan. The Plan discusses the Company's plans for continuing and expanding its existing DSM program offerings. In addition, the Plan includes a schedule for a pilot residential and small commercial load control program to be implemented in 2003, an evaluation of the size threshold for the existing Energy Exchange program, and a plan for continuing and expanding last year's customer information campaign, including a new educational campaign aimed at the new inverted rate structures. However, the DSM Implementation Plan does not include an interim IRP evaluation of additional DSM program options, using either an updated RAMPP-6 or preliminary RAMPP-7 model.

### **LAW Fund Comments**

The Company's April 1, 2002 DSM Implementation Plan does not comply with the Commission's September 10, 2001 and October 29, 2001 Orders. Notably, it does not provide an interim IRP evaluation of additional DSM program options using a revised RAMPP-6 or preliminary RAMPP-7 model. This issue was repeatedly brought to the Company's attention prior to the April 1, 2002 filing date of the DSM Implementation Plan. The LAW Fund raised the issue in its January 29, 2001 Comments on the certificate of public convenience and necessity application for Gadsby. In addition, several members of the Energy Efficiency Advisory Group have brought this issue to the Company's attention on multiple occasions, including, for example, the February 20, 2002 letter to the Company.

The LAW Fund requests that the Commission, once again, order the Company to conduct an interim IRP evaluation of additional DSM program options using a revised RAMPP-6 or preliminary RAMPP-7 model. The Commission should direct the Company to include this evaluation of additional DSM program options as part of the updated RAMPP Action Plan ordered by the Commission in Docket No. 98-2035-05. This type of DSM analysis should be conducted anyway in order for the Company to meet the Commission's requirements that the Action Plan be based on "least-cost operation" and that it "evaluates demand-side management opportunities equally with supply-side options."<sup>4</sup> But to the extent that it is not practical to conduct the interim IRP evaluation in time for the June 1, 2002 filing date for the Action Plan, the LAW Fund requests that the Commission order an interim IRP evaluation of additional DSM program options as an amendment to the Action Plan as soon as practicable thereafter, but no later than the end of July 2002.

The LAW Fund is concerned that the Company has created a double standard with respect to its treatment of supply-side and demand-side resources.<sup>5</sup> The Commission, in its September 10,

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<sup>3</sup> Feb. 20, 2002 Letter, at p.1 (copy attached as Attachment B).

<sup>4</sup> See Feb. 28, 2002 Order (Docket No. 98-2035-05), at p.13 ("An updated Action Plan, which meets current Guideline requirements, is based on integrated, single-system, least-cost operation, and evaluates demand-side management opportunities equally with supply-side options, will be submitted by June 1, 2002.").

<sup>5</sup> See LAW Fund January 29, 2002 Letter, at p.4 (Attached as Attachment A); See also LAW Fund's Request for Rehearing of the Commission's September 10, 2001 Report and Order, at pp.4-5 ("To the extent the

2001 and October 29, 2001 Orders, directed the Company to conduct an interim IRP evaluation of the DSM program options identified in the Tellus Report. However, the Company has not yet conducted this evaluation. Notwithstanding the absence of a revised interim IRP evaluation of DSM options, the Company has proceeded with its plans to construct and acquire additional supply-side resources, including the 120 MW Gadsby facility, the ongoing request for proposal ("RFP") process for additional wholesale purchases and the proposed 200 MW lease agreement with West Valley LLC. It may be the case that a significant portion of these resource needs can be met more cost-effectively through increased investment in DSM. Indeed, in its order granting the certificate of public convenience and necessity for Gadsby, the Commission acknowledged that "a current and acceptable integrated resource plan is not in hand, and this, as we have found elsewhere, suggests an incomplete consideration of demand side resources (See Report and Order, Docket No. 01-035--01, Reconsideration of DSM Issues, issued October 29, 2009)." *See* January 29, 2002 Report and Order (Docket No. 01-035-37), at p.6.

Since the Company filed its April 1, 2002 DSM Implementation Plan, the LAW Fund, Company and Utah Energy Office ("UEO") reached a letter agreement in a separate docket whereby the Company agreed, among other things, to work with the Energy Efficiency Advisory Group to analyze six additional DSM program options. The letter agreement states, in pertinent part, that:

The LAW Fund, the UEO and the Company ("Parties") will reach agreement no later than April 30, 2002 on no more than 6 energy efficiency and load management programs for analysis ("Analysis") by the Parties. The Parties will collaborate and work with the Energy Efficiency Advisory Group to determine the appropriate program design, penetration rates, program costs, avoided cost benefits (including, but not limited to, avoided capacity and energy costs and avoided transmission and distribution costs), the timeframe that would be required if the program is to be implemented, and other assumptions which will be used in the Analysis. The analysis will be integrated with the on-going IRP process. The Analysis will be completed and presented to the Energy Efficiency Advisory Group no later than 3 months after the date of this Agreement.<sup>6</sup>

The LAW Fund is hopeful that the Company's commitment to work with the Energy Efficiency Advisory Group on six additional DSM program options will help ensure reasonable progress this summer in analyzing additional DSM program offerings. The LAW Fund anticipates that these six DSM program options will be largely consistent with the program options identified by the Tellus Report. The LAW Fund requests that the Commission acknowledge the letter agreement among the Company, LAW Fund and UEO in its order on the April 1, 2002 DSM Implementation Plan.

However, it is the LAW Fund's understanding that the Company does not intend to evaluate additional DSM program options through an interim IRP evaluation but rather plans to wait until it completes the RAMPP-7 biennial report. Thus, it is imperative that the Commission direct the Company to come into compliance with its September 10, 2001 and October 29, 2001 Orders and conduct an interim IRP evaluation of additional DSM program options. To simplify matters, the

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Commission's September 10, 2001 Order represents a preference for the evaluation of DSM acquisition through the RAMPP process, the LAW Fund fully supports that policy -- provided that supply-side resource acquisitions are held to the same standard.").

<sup>6</sup> *See* Letter Agreement, dated April 13, 2002, among PacifiCorp, LAW Fund and UEO. Due to a logistical mix-up with the Company, the LAW Fund does not have an executed copy of the Letter Agreement at the time it is filing these comments. The LAW Fund will file an executed copy of the Letter Agreement with the Commission as soon as it becomes available.

LAW Fund recommends that the interim IRP evaluation focus on the six program offerings to be analyzed by the Energy Efficiency Advisory Group. Without a more expedited consideration of DSM program options, Utah ratepayers may miss the opportunity to meet some or all of its summer 2002 and 2003 peak resource needs and its long-term resource needs more cost-effectively than through the potentially more expensive supply-side alternatives currently under consideration.

Respectfully submitted,

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