- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of	)	DOCKET NO. 02-035-04
PacifiCorp for an Investigation of	)	
Inter-jurisdictional Issues	)	REPORT AND ORDER

ISSUED: December 14, 2004

SHORT TITLE

PacifiCorp MSP Case

SYNOPSIS

The Commission approves a Stipulation by parties supporting the use of the Revised Protocol method in conjunction with rate mitigation measures for apportioning PacifiCorp's costs and revenues among its various jurisdictions for determining Utah revenue requirement. The Stipulation provides for a method that permits PacifiCorp to plan and operate as a single integrated company doing business in six states.

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I. PROCEDURAL HISTORY

On March 5, 2002, PacifiCorp ("Company") filed an application requesting the Commission to investigate a number of important issues related to its status as a multi-jurisdictional utility and to endorse a process through which these issues can be considered by stakeholders from all of the Company's jurisdictions in a Multi-State Process (MSP). In its application, the Company listed a number of issues to be investigated, related primarily to the interjurisdictional allocation of the costs of existing and new generation and transmission resources under future scenarios including direct access , sale or purchase of service territory or closure of a major industrial facility.

On March 11, 2002, the Commission issued a notice of PacifiCorp's MSP application and requested interested parties to file comments on both the application and the Company's proposal for a Special Master for the MSP.

On March 18, 2002, PacifiCorp filed notice of its nomination of Mr. Robert I. Hanfling as the Special Master for the MSP.

On March 22 and April 3, 2002, the Division of Public Utilities ("Division") filed comments generally supporting the proposed MSP and the use of Mr. Hanfling as a facilitator. On March 26, 2002, the Committee of Consumer Services ("Committee") filed comments supporting the MSP, but asked that the Special Master be termed a facilitator who would not be expected to make recommendations.

On April 3, 2002, the Commission issued an order initiating the MSP and announcing an organization meeting for the process in Boise, Idaho on April 10-12, 2002. On May 14, 2002, in response to PacifiCorp's motion, a Protective Order was issued. MSP meetings, with PacifiCorp and representatives of parties in PacifiCorp's states, including state regulators and intervenors, were held in May, July, September, October, November and December of 2002 and in February, June and July of 2003. These meetings were facilitated, at the state commissions' direction, by Robert Hanfling. Participants from Utah included Commission staff, the Division, the Committee, the UAE Intervention Group ("UAE"), the Federal Executive Agencies ("FEA"), Salt Lake Community Action Program ("SLCAP") and Crossroads Urban Center ("Crossroads"). In addition, numerous teleconferences with these parties were held throughout this period.

On September 30, 2003, PacifiCorp filed a Motion and supporting testimony for Ratification of Interjurisdictional Cost Allocation Protocol ("Protocol"). A scheduling conference was held on October 24, 2003 followed by an order setting dates for technical conferences and for filing of parties' positions on the type of proceeding that should be used for the Protocol ratification as well as a preliminary issues list. A proposed procedure was filed on November 7, 2003 by PacifiCorp followed by responsive filings and preliminary issues lists by other parties.

A technical conference was held on December 9, 2003. On December 22, 2003, the Commission issued an order setting the remaining schedule for the case with hearings set for July 19-20, 2004. Additional technical conferences were held pursuant to Commission orders on January 14 and 23, February 2, 9 and 10, March 3, 10, 15, 17 and 19, and April 6, 14, 15, 16 and 19, 2004. Attendees of these technical conferences typically included the parties to this case. On March 8, 2004, the Division, the Committee and UAE filed MSP issues papers. On April 27-28, 2004 in Boise, Idaho, a meeting of MSP participants from PacifiCorp states was conducted by MSP mediator, Robert Hanfling.

On May 7, 2004, a Commission scheduling order set dates for PacifiCorp to circulate a revised draft MSP proposal to Utah parties and to file a revised MSP proposal and supporting testimony. Following notice, settlement conferences were held on May 18 and 25, 2004. On May 21, 2004, PacifiCorp filed supplemental testimony describing the events occurring in the MSP since September 2003 and filed a revision to the MSP Protocol ("Revised Protocol"). On June 1, 2004, the Commission set dates for the filing of an MSP Stipulation and testimony by parties in support or opposition to the Stipulation.

On June 28, 2004 parties filed the Stipulation (attached) supporting a Revised Protocol for interjurisdictional allocations, use of the Rolled-In method as a baseline and rate mitigation measures. Parties to the Stipulation are the Division, the Committee, UAE, SLCAP, Crossroads, the AARP, FEA and PacifiCorp.

On July 12, 2004, PacifiCorp filed second supplemental testimony supporting the Stipulation. On July 15, 2004, direct testimony supporting the Stipulation and Revised Protocol was filed by the Division, the Committee and UAE.

The Stipulation was presented to the Commission at a hearing on July 19, 2004. At the hearing, witnesses for PacifiCorp, the Division, the Committee, UAE, SLCAP and Crossroads presented testimony supporting the Stipulation. No party presented testimony opposing the Stipulation. The Commission questioned the parties and witnesses regarding various aspects of the Stipulation and the evidence presented.

On August 18, 2004, the Committee filed a petition for leave to file a post hearing response regarding how class cost of service would be affected by the Revised Protocol. On September 3, 2004, PacifiCorp filed a response in opposition to the Committee's petition, stating the petition was unnecessary and recommending that the Commission's final order in this case not deal with rate design issues. On September 7, 2004, UAE filed a response in opposition to the Committee's petition.

Parties to this case are PacifiCorp, the Division, Committee and the following intervenors: SLCAP, Crossroads, AARP, FEA, Western Resource Advocates and the UAE Intervention Group.

II. REVISED PROTOCOL

Without modifying its terms in any way, the following is a brief summary of the Revised Protocol focusing on changes from the Rolled-In method currently used in Utah. The Revised Protocol, an interjurisdictional cost allocation method proposed by the Company in the MSP, is a method of apportioning the costs and revenues associated with PacifiCorp's generation, transmission and distribution systems among the six states in which PacifiCorp operates:

1. Introduction

PacifiCorp commits that it will continue to plan and operate its generation and transmission system on a six-state integrated basis in a manner that achieves for its customers a portfolio of resources based on a combination of least cost and risk. Parties who support the Revised Protocol do so in the expectation that it will achieve a resolution to MSP issues that is in the public interest. However, this support is not binding in the event that unforeseen or changed circumstances cause that party to conclude that the Revised Protocol no longer produces results that are just, reasonable and in the public interest. Also, support of the Revised Protocol is not deemed to constitute an acknowledgment by any party of the validity or invalidity of any particular method, theory or principle of regulation, cost recovery, cost of service or rate design.

2. Allocation of Generation Resource Costs

Resources will be assigned to one of four categories for interjurisdictional cost allocation purposes: Seasonal Resources, Regional Resources, State Resources, or System Resources. Seasonal Resources are grouped into the following three categories, with each having unique cost allocation formulae: Simple-Cycle Combustion Turbines, Seasonal Contracts, and Cholla IV/APS (Arizona Public Service exchange). Regional Resources include owned hydro and Mid-Columbia Contracts, with each having unique cost allocation formulae. State Resources include the following categories: Demand-Side Management Programs, Portfolio Standards, and Qualifying Facilities (QF) Contracts, with each having a unique cost allocation formula. All resources that are not Seasonal Resources, Regional Resources or State Resources are System Resources.

3. Load Growth

Potential adverse impacts on states from faster growing states will be studied with ameliorative mechanisms developed if necessary.

4. Refunctionalization of Transmission Costs

If the Company is required (by the Federal Energy Regulatory Commission) to refunctionalize any assets from transmission to distribution, the cost responsibility will be assigned to the State where the assets are located.

5. *Treatment of Special Contracts*

Special Contract revenues will be included in State revenues. Special Contract loads will be included in all Load-based Dynamic Allocation Factors.

6. Allocation of Gain or Loss from Asset Sales

Any loss or gain from the sale of a Resource or a transmission asset will be allocated among States based upon the allocation factor used to allocate the Fixed Costs of the Resource or the transmission asset at the time of its sale. Each Commission will determine the allocation of the loss or gain between State customers and PacifiCorp shareholders.

7. Implementation of Direct Access Programs

Where the Company is required to continue to plan for the load of Direct Access Customers, such load will be included in Load-Based Dynamic Allocation Factors for all Resources. After customers permanently choose direct access and where the Company is no longer required to plan for their loads, such loads will be used in the allocation of existing resources, but not for new resources acquired after the direct access choice. Revenues and costs from Direct Access Purchases and Sales will be assigned situs to the State where the Direct Access Customers are located and will not be included in Net Power Costs.

8. Loss or Increase in Load

Any loss or increase in retail load occurring as a result of condemnation or municipalization, sale or acquisition of service territory which involves less than five percent of system load, realignment of service territories, changes in economic conditions or gain or loss of large customers will be reflected in changes in Load-Based Dynamic Allocation Factors.

9. *Sustainability of Protocol*

An MSP Standing Committee will be organized consisting of one member or delegate of each Commission. The MSP Standing Committee will appoint a Standing Neutral, at the Company's expense, to facilitate discussions among States, monitor issues and assist the MSP Standing Committee. The MSP Standing Committee will consider possible amendments to the Revised Protocol that would be equitable to PacifiCorp customers in all States and to the Company. Any proposed amendments to the Revised Protocol will be submitted by PacifiCorp to each Commission for approval.

III. STIPULATION

Without modifying its terms in any way, the following is a brief summary of the Stipulation. Parties to the Stipulation agree to support the adoption of the previously described Revised Protocol method in conjunction with the Rolled-In method and rate mitigation measures for establishing PacifiCorp's Utah revenue requirement.

1. *Calculation of Utah Revenue Requirement*

The Company's Utah revenue requirement will be the lessor of that calculated using the Rolled-In method multiplied by the applicable percentage Rate Mitigation Cap or that calculated using the Revised Protocol method multiplied by the applicable percentage Rate Mitigation Premium.

2. *Rate Mitigation Cap*

The Rate Mitigation Cap applied to the results of the Rolled-In method is 101.50 percent for the period from the effective date of the final Commission order in the first general rate proceeding filed after the effective date of the Stipulation through the Company's fiscal year 2007, 101.25 percent for fiscal years 2008 and 2009 and 101.00 percent for fiscal years 2010 through 2014.

3. *Rate Mitigation Premium*

For the Company's fiscal years 2010 through 2012, the Rate Mitigation Premium applied to the results of the Revised Protocol method is 100.25 percent. For all other fiscal years, the Rate Mitigation Premium is 100.00 percent.

4. *Threshold for Continued Support of the Revised Protocol*

The Company may propose a new interjurisdictional cost allocation method if during fiscal years 2010 through 2014 its Utah revenue requirement calculated using the Rolled-In method multiplied by the Rate Mitigation Cap is less than that calculated using the Revised Protocol method.

The Stipulation provides that parties may withdraw support in the event the Revised Protocol is rejected or materially conditioned by any Commission or court, or if the Rate Mitigation Measures are rejected or materially conditioned by this Commission or any court. If any signatory to the Stipulation withdraws support, any other signatory may similarly withdraw support upon written notice to the Commission and other signatories.

The Stipulation further provides that neither the Stipulation nor the adoption of the Revised Protocol and the associated Rate Mitigation Measures shall in any manner affect or negate the necessary flexibility of the regulatory process to deal with changed or unforeseen circumstances, and a party's execution of the Stipulation will not bind or be used against that party in the event that unforeseen or changed circumstances cause that party to conclude, in good faith, that the Revised Protocol no longer produces results that are just, reasonable, or in the public interest.

A copy of the narrative of the Stipulation and the narrative of the Revised Protocol (Exhibit A to the Stipulation) is attached to this Order.

IV. POSITIONS OF PARTIES

The Company states in its application that differences in the way its state commissions allocate the Company's pre-1989 generation and transmission investments currently result in a substantial under-recovery of costs, although no estimate of this amount is provided. The Company believes that the current under-recovery of costs may increase due to divergent state policies. In particular, the Company states there is no consensus among the states as to: 1) how costs of generation and transmission should be allocated; 2) who should bear responsibility or enjoy the benefits of resources in the event of direct access, sale or purchase of service territory or loss of industrial load; 3) the Company's responsibility for meeting future load growth through the addition of rate-based resources; 4) who should bear the costs of new resources; 5) the choice of the new resources; and 6) no assurance that any consensus that might emerge will be durable so as to permit full cost recovery over the resource's life. PacifiCorp therefore seeks a more durable resolution to the interjurisdictional allocation issue. The Company testifies it initially sought, in December 2000, to address its problems by reorganizing itself into six distribution companies, a generation company and a service company. The Company testifies a principal reason for this proposal was the Oregon direct access legislation (SB 1149) adopted in 1999 and its expectation that other states would pursue direct access. The Company states the restructuring proposal was controversial since it would result in a transfer of jurisdiction from its state commissions to the Federal

Energy Regulatory Commission and the Securities and Exchange Commission. The Company further explains it was encouraged by the states to seek other means of resolving its concerns that did not require a legal restructuring of the Company and this ultimately led to the MSP.

The Company presents Revised Protocol, in conjunction with the Stipulation, as an acceptable resolution to the six issues stated above. The Stipulation states the Revised Protocol, if followed by all states, would, in the long run, result in the opportunity for the Company to recover all of its prudently incurred costs and earn its authorized rate of return. In addition, it provides a forum to resolve new interjurisdictional issues.

The Company testifies the Stipulation will provide benefits to Utah customers including: 1) continued six-state integrated system planning and operation; 2) improved ability to implement the results of those planning efforts; 3) continued access to financial and commercial trading markets as a heathy utility; 4) retention of the benefits and efficiencies of the integrated system; 5) improved ability to work with state policy makers and address differences in policies amongst the states in the context of an integrated system; and 6) mitigation of some of the impacts on other jurisdictions of a single state’s energy policy.

PacifiCorp further testifies its forecast on a net present value basis of the economic impact of the Revised Protocol on any state is relatively modest. The forecasted economic impact on Utah is an increase in revenue requirement, on a net present value basis for the period 2005 through 2018, of 0.68 percent. This increase represents the difference in results of interjurisdictional allocation to Utah between the Revised Protocol and the currently used Rolled-In method, but does not include the effect of the rate mitigation measures contained in the Stipulation. The Company’s analyses suggest that during the early years, Utah and Idaho will be worse off under the Revised Protocol method than under the Rolled-In method, but they will be better off in the later years of the analyses. Conversely, Oregon, Washington and Wyoming will be better off under Revised Protocol in the early years and worse off in the later years.

In its response to the Committee’s post-hearing filing, the Company cites language in the Revised Protocol that leaves unresolved how the effect of the Revised Protocol should be applied to or apportioned among customer classes in Utah. PacifiCorp agrees with the Committee’s assertion that the record regarding rate spread is not fully developed in this proceeding and concurs with the Committee’s recommendation that the Commission’s order in this docket not deal with how the revenue requirement impacts from use of the Revised Protocol and Stipulation be applied to, or apportioned among customer classes in Utah.

The Division testifies the MSP was established to address a cost recovery problem. The Division describes this problem as less than full cost recovery of existing generation costs due to adoption of different cost allocation methods among states and less than full cost recovery of new generation cost due to Oregon’s legislation which undercut that jurisdiction’s rate base participation in future generation plants. Further, the Division states its concern about the Company’s future ability to fund a least-cost/risk generation-transmission infrastructure absent a consistent cost-allocation mechanism among states.

The Division relies upon multiple policy objectives to evaluate possible resolutions to the cost recovery problem: 1) a financially sound utility; 2) efficient acquisition of resources; 3) safe, reliable service at reasonable rates; 4) minimal and reasonable cost shifts to Utah ratepayers; 5) minimal changes to the Rolled-In method; 6) regulatory ease and transparency; 7) consistency with Utah’s state energy policy principle of regional participation in developing regional solutions to common problems; and 8) balance the interests of customers and shareholders.

The Division states the Rolled-In method currently used in Utah represents a relatively simple and straight forward allocation method and any changes to the method should be as minimal as possible while still providing effective resolution to the cost recovery problem. The Division testifies the Revised Protocol method results in cost shifts to Utah in the early years that are not reasonable and that the Stipulation provides for mitigation of those early impacts. The Division testifies this mitigation is fair and in the public interest as it allows PacifiCorp a greater opportunity to recover its prudently incurred costs while also promoting rate stability and minimal cost impacts for ratepayers that are reasonable.

The Division testifies to several benefits from the MSP solution that are consistent with its policy objectives: 1) it promotes economic efficiency by retaining integrated system planning and operation; 2) by reducing the allocation gap and agreement on allocation of new resource cost, it supports the Company’s continued access to financial markets and mitigates the risk of higher capital costs in rates; 3) through agreement on allocation of new resources, it improves the Company’s ability to implement its resource plans; 4) it provides improved clarity on the allocation of Special Contracts, Qualifying Facilities, and demand-side management costs; 5) through agreement on treatment of Oregon’s Direct Access program, it can mitigate the impact on other jurisdictions of another state’s energy policies; and; 6) it preserves existing state jurisdiction over generation and transmission assets.

The Committee testifies it supports the Revised Protocol with the protections of the Stipulation, in order to provide the Company with greater certainty of cost recovery given its significant resource and infrastructure investment requirements. However, the Committee testifies the Rolled-In method should remain the standard for determining just and reasonable rates and it would not support the Revised Protocol method if revenue requirement impacts shown in Company forecasts did not approach those of the Rolled-In method.

The Committee testifies the Company initially identified its interjurisdictional problem in a filing it made before the Oregon Commission, wherein the Company noted the Resource Plan process required by Oregon was inconsistent with current system operation and interjurisdictional allocation practices. Even though the Resource Plan requirements were delayed or changed, the Committee agreed that inter-state discussion regarding implementation of Oregon’s SB 1149 deregulation law was reasonable. Additionally, due to Oregon deregulation and the deregulation movement in general, the Committee argues the Company became reluctant to invest in new plant for fear it would not recover its full investment. The Committee argues the Company responded by placing greater reliance on market purchases to meet growing demand leading to higher cost and greater uncertainty for customers than if a lowest cost/risk portfolio of resources were employed to serve them over the long run. Although the Committee testifies it urged the Company to implement "effective" planning, the Company responded that other states would not pay for new resources. In order to resolve this issue, the Committee testifies discussion with other states was important.

The Committee contends the Company's Revised Protocol, absent the Stipulation, has advantages and disadvantages for Utah customers. The Revised Protocol's key advantage, if followed by all states, is agreement of states on an allocation approach consistent with single system planning and operation, giving the opportunity for the Company to recover its prudently incurred costs over time, and thereby providing the Company with proper incentive to proceed with integrated resource planning and least cost resource acquisition in a timely manner.

However, the Committee notes disadvantages as well. The Committee is concerned that the resolution is too costly to Utah in the near term in comparison to a fair share benchmark and finds the timing of relative cost impacts to implement it problematic. Further, the Committee questions its durability for several reasons. Because some components are not cost-based, it could lead to unintended consequences and erode support; rate shock could erode support because the cost impact to each state changes over time. The directive to the standing committee of examining structural mechanisms as a means to address load growth impacts is at odds with the Committee's perception of the primary benefit of a common allocation method: the commitment to integrated system operation and resource planning. The Committee also believes the treatment of seasonal resources is not principled and unfairly burdens the summer season. Additionally, the Committee questions the durability of the Revised Protocol given the lack of durability of the Company's assumption of the risk of differences in interjurisdictional allocation methods in the 1989 merger and also in the 1999 Scottish Power merger. The Committee testifies the Commission, in a 1990 case, established the Rolled-In method as the Utah allocation method and reaffirmed it in 1997 while allowing for a merger fairness adjustment. The Committee further explains Utah customers used a refund due them in the 1997 general rate case (Docket No. 97-035-01) to buy out the remaining fairness adjustment to complete the transition to the Rolled-In method. Finally, the Committee sees no principled basis for supporting any type of permanent resource endowment, such as the hydro adjustment, for any group as the PacifiCorp system uses the mix of resources to provide beneficial service to all its customers jointly.

The Committee states the Stipulation addresses some of these concerns. It makes the following recommendations to ensure the public interest is served: 1) the Commission should reaffirm that a traditional single-system, fully Rolled-In allocation method is the rate-making standard for determining cost causation and for evaluating whether a rate is just and reasonable and that deviations from the Rolled-In method be for reasons other than cost causation; 2) the Company should be ordered to report Rolled-In and Revised Protocol revenue requirement results in its reports on the semi-annual results of operations and in any future rate case filings; 3) if after 2014 the Utah revenue requirement calculated using the Revised Protocol method should ever exceed 1 percent more than that calculated using the Rolled-In method, the Commission should open a docket to reconsider the just and reasonableness of the Revised Protocol; 4) the Commission should state its intent to resolve with the MSP Standing Committee specific issues regarding seasonal resources; and 5) the Company should be required to file with the Commission regarding the materiality of possible harm from load growth before taking a position before the MSP Standing Committee.

The Committee in its post-hearing filing states the record regarding rate spread to customer classes is not fully developed in this proceeding and recommends the Commission

Order in this docket not address how the revenue requirement impacts resulting from use of the Revised Protocol and Stipulation be applied to, or apportioned among, customer classes in Utah.

The UAE testifies the Stipulation is in the public interest as it resolves the issue of inconsistent interjurisdictional allocation methods and provides reasonable rate mitigation for Utah customers. UAE testifies: 1) various jurisdictions in the Company’s territory have in recent years adopted interjurisdictional allocation methods that are not consistent with one another; 2) this problem is particularly significant in the two largest jurisdictions, Utah and

Oregon; 3) PacifiCorp maintains this inconsistency has deprived the Company of a reasonable opportunity to fully recover its prudently-incurred costs, and thus is harmful to the Company's financial integrity; 4) the Company has been reluctant to invest in necessary infrastructure because of its fear that not all of its investment will be recovered; 5) the perception of financial harm may have negative consequences for customers, particularly in the form of increased costs to the Company in capital markets; 6) ratepayers will be harmed to the extent the utility refuses to make necessary infrastructure investments; 7) the Company's explicit agreement (by accepting prior merger conditions) to accept the risk of inconsistent interjurisdictional cost allocation methods must be factored into any fair and reasonable resolution of the allocation problem; 8) the Stipulation provides a transition period during which the impact and risks associated with the change in interjurisdictional allocation method is mitigated for Utah customers; 9) the Stipulation and associated rate mitigation measures effect a sharing of the financial impacts of the use of the Revised Protocol method between the Company's Utah ratepayers and its shareholders; 10) and absent the Stipulation's rate mitigation provisions which protect Utah customers through 2014, it would not have signed the Stipulation. UAE further explains that Utah parties were unwilling to concede to a permanent hydro endowment since, if the Revised Protocol fails to produce just and reasonable results, parties will be free to advocate for any reasonable interjurisdictional allocation method. UAE, in its response to the Committee's post-hearing filing, agrees with PacifiCorp's response that the issues raised by the Committee regarding cost of service and rate impacts of the Stipulation to customer classes have not been analyzed or addressed on the record in this docket and thus cannot properly be addressed or resolved in the Commission's Order.

SLCAP and Crossroads testify that taken together as a package, the Stipulation and Revised Protocol provide benefits both for PacifiCorp and Utah parties. They testify the Revised Protocol provides PacifiCorp with a consistent allocation method that has been lacking in recent years, giving the Company needed assurance of a reasonable opportunity to fully recover its prudently incurred costs, thus enabling it to move forward with investments and needed infrastructure. They believe Utah customers will benefit from this assurance through the Company's ability to access financial markets at a reasonable cost. SLCAP and Crossroads testify to other benefits including: 1) keeping the system intact and operating as a whole with least cost planning and operation of generation and transmission systems; 2) retaining the traditional dynamic allocation approach, albeit with modifications; 3) setting reasonable bounds around the cost impacts to Utah in the initial years; 4) sharing the near-term impacts of moving forward to the Revised Protocol allocation method between Utah ratepayers and PacifiCorp in an appropriate manner; 5) retaining flexibility that would have been difficult under some of the other scenarios that have been proposed including a permanent structural separation; 6) providing information on a regular basis that will allow Utah parties to analyze the revenue requirement impacts under different allocation methods; and 7) providing a mechanism through the MSP Standing Committee for potential resolution of issues on an ongoing basis. Finally, SLCAP and Crossroads testify that Utah parties' insistence on decision-making based on analysis resulted in a far better conclusion than otherwise would have been reached and that while the agreed-upon proposal is not a perfect solution, it is a reasonable one and therefore believe the Stipulation and Revised Protocol, taken as a whole, are in the public interest and should be approved by the Commission.

V. BACKGROUND

It is essential that we review the history of interjurisdictional allocation proceedings in Utah as we have a well-developed and long-standing record of decision on the adoption of an allocation method for use in determining just and reasonable rates in Utah. We review the bases for our record of decision to identify the changes that have occurred since those decisions were made that would warrant adjustment to interjurisdictional allocations in order to continue to ensure just and reasonable rates in Utah.

Prior to the 1989 merger of Utah Power and PacifiCorp (Docket No. 87-035-27), Utah Power served wholesale customers under FERC jurisdiction and retail customers in Utah, Idaho and Wyoming under state jurisdictions. In that merger case, the Division testified that the risk of dollars "falling through the cracks" within the inter-state allocation process existed then and that shareholders assumed the risk of less than full cost recovery. Although the 1989 merger was approved without resolution of interjurisdictional allocation issues, the states worked on the issues while the Company accepted the risk of less than full cost recovery. For many years the Company reported results of operations to the states using common interjurisdictional allocation methods, although allowed rates of return and revenue requirement adjustments were not always the same among the states. The beginnings of retail electric choice around the country, changes in wholesale power markets and FERC's transmission initiatives impacted regulated electric utilities in various ways. The Company addressed this in its December 1, 2000 filing for corporate restructuring as its concerns expanded beyond the then differing state interjurisdictional allocation methods. In the current case, parties testify of a problem and propose a resolution that changes the way Utah addresses interjurisdictional allocations.

The following background briefly summarizes this Commission's long-standing commitment to the use of the traditional Rolled-In method of interjurisdictional allocations. In the present docket, we are asked to modify this position.

A. The 1989 PacifiCorp/UP&L Merger, Docket No. 87-035-27

Utah Power and PacifiCorp filed on September 17, 1987, for Commission approval of the merger. Interjurisdictional allocation problems were anticipated but not resolved in the merger approval proceedings. Applicants were concerned if each regulatory jurisdiction reviewing the merger were to adopt allocation procedures, inconsistencies between them could delay the merger beyond the Applicants' required deadline. The Applicants assured the Commission that the merger benefits were so large that under any reasonable allocation method Utah ratepayers would be better off with the merger.

The Commission's September 28, 1988 Order approving the Merger required the Applicants to convene multi-jurisdictional meetings to discuss allocation issues and to file a proposed interjurisdictional allocation method for the merged company. The proposed allocation method was to avoid total reliance on stand-alone modeling, to be verifiable against actual data, and to equitably allocate the benefits of the Utah Power transmission system and the Pacific Power hydro resources. PacifiCorp shareholders were to assume all risks that may result from less than full system cost recovery due to the adoption of different allocation methods by its regulatory jurisdictions. The PacifiCorp Interjurisdictional Task force on Allocations ("PITA") was convened.

B. 1988 Pre-Merger "Benchmark" General Rate Case, Docket No. 89-035-10

The Commission initiated a general rate case based on Utah Power's last full year of pre-merger operations to ensure Utah rates reflected the cost reductions occurring prior to and unrelated to the 1989 merger.

C. 1990 Phase I General Rate Case, Docket No. 90-035-06

In its December 7, 1990 Phase I order, the Commission addressed allocation issues for the merged company. PITA had developed two interjurisdictional allocation methods, Consensus and Rolled-In. The Commission found due to cost structure differences of the pre-merger companies, immediate adoption of the Rolled-In method would shift costs from the Utah division to the Pacific division of the merged company, producing an unfair result. The Commission adopted the results of the Consensus method, but not the method itself, for use in Phase II of the proceeding. The Commission stated that a single-system, Rolled-In allocation method provided the only acceptable benchmark or standard by which alternative allocation methods may be judged.

The Commission preferred that endowments, a key component of the Consensus method, be eliminated in the near future without abandoning the merger fairness objective . The Commission then presented guidelines it would use in considering future allocation methods. These included: 1) a Rolled-In method will be the standard by which alternative methods will be judged; 2) future allocation methods will not diverge further from the Rolled-In method's results than does the Consensus method; 3) future allocation methods must promote progress toward the Rolled-In method standard; 4) ten years is a reasonable goal for the achievement of the Rolled-In method subject to the caveat that meeting the merger-fairness objective may continue to require some modification of the Rolled-In method, such as the assignment of pre-merger plant and contracts over a transitional period no longer than the depreciation schedules and contract renewals and terminations; 5) the opportunity to lower future system cost of service occasioned by the Arizona Public Service contracts will be weighed against any endowments assigned to divisions; 6) as the merging companies had produced no least cost planning on the record, it is unreasonable to assume Utah Power as a stand-alone company would have had a higher future resource cost than Pacific Power as a stand-alone company; 6) future allocation methods should

attempt to use system rather than divisional allocation factors; and 7) all post-merger costs and non-retail revenues should be allocated system-wide.

D. 1990 Phase II General Rate Case, Docket No. 90-035-06

The Commission emphasized that the Rolled-In method was and would continue to be the benchmark by which the cost of merger-fairness was to be calculated. In this docket, merger-fairness was measured by the difference between jurisdictional revenue requirement calculated using the Consensus and Rolled-In methods. Applied to the adjusted 1990 test year data, this difference amounted to $72.74 million. The Commission concluded this amount represented the maximum divergence from Rolled-In method results it would permit, then and in the future, in order to achieve interjurisdictional fairness. The Commission also reaffirmed the necessity of single system, Rolled-In, embedded cost-of-service analysis for the Utah jurisdiction and its service classes.

E. 1997 Adoption of an Interjurisdictional Allocation Method, Docket No. 97-035-04

Beginning in 1993, the Company filed in Utah its semi-annual reports of system and Utah jurisdictional results of operations using the Accord method, following development by PITA, although not formally adopted by the Commission (since it was not an issue brought before us). On March 26, 1997, the Division petitioned the Commission to establish an interjurisdictional allocation method, stating the Accord method was not acceptable as Company projections showed movement away from the Commission’s Rolled-In goal. The Division recommended adoption of the Rolled-In method. The Company supported the Modified Accord method developed by PITA but not supported by Utah. This method was not adopted for use in Utah jurisdiction rate cases.

The Commission's April 16, 1998 order adopted the Rolled-In method and concluded: (1) cost causation reflecting current rather than historical usage is the basis of cost apportionment; (2) merger-fairness based on direct assignment of jointly used plant must be rejected; (3) efforts to promote merger-fairness through ad hoc adjustments within allocation methods has unintended and inconsistent consequences; and (4) therefore the Modified Accord method, presented by the Company, is not adopted. The Commission reaffirmed its decisions in Docket 90-035-06 stating: (1) merger-fairness is achieved in Utah by a non-cost based lump-sum addition to Rolled-In revenue requirement; and (2) the merger-fairness adjustment is to be phased-out over time.

The Commission concluded that the merger-fairness adjustment was to be phased out over five years by means of a straight-line reduction, beginning in 1996 through 2000. For reporting and ratemaking purposes, the Company was ordered to use the Rolled-In method to determine jurisdictional revenue requirement and to include a fairness adjustment of $34.56 million for 1997, $25.92 million for 1998, $17.28 million for 1999, and $8.64 million for 2000. Beginning January 1, 2001 (twelve years after the merger), Utah jurisdictional revenue requirement was to be determined using the Rolled-In method with no further merger-fairness adjustment.

F. 1998 General Rate Case, Docket No. 97-035-01

On February 12, 1997, the Division and the Committee filed a petition with the Commission to initiate a general rate case for the Company. In order to allow a legislative task force to study electric industry restructuring issues, the Utah Legislature in its 1997 General Session enacted House Bill 313, which froze the Company's rates on an interim basis, subject to refund, at January 31, 1997 levels until 60 days after the conclusion of the 1998 General Session.

The rate case proceedings resumed in the Spring of 1998, resulting in the Commission ordering a refund to customers. The refund period began March 14, 1997, when House Bill 313 became effective, and extended until March 1, 1999 when new rates were to become effective. The present value of the $51.5 million annual revenue reduction over the refund period, resulted in a refund owing to customers of $111.5 million.

The large value of the refund afforded the opportunity to offset the remaining future costs of merger-fairness, determined in Docket 97-035-04, against the refund. This would allow the immediate adoption of the Rolled-In method in a manner fair to both the Company and its customers. The Commission concluded that the normal pattern of rate cases, consistency and gradualism all called for allowing a two year lag for incorporating test-year adjustments into rates. Since new rates based on the 1997 test year were to become effective March 1, 1999, the future costs of fairness, recognizing a two year lag, included ten months of an 1999 annual

amount of $34.56, $25.92 million for 2000, $17.28 million for 2001, and $8.64 million for 2002. The present value of these fairness amounts was $71.24 million.

Thus the $111.5 million refund owing to customers was reduced by the $71.24 million buyout and elimination of future fairness costs, resulting in a net refund of $40.26 million. This allowed the immediate movement to a Utah jurisdictional revenue requirement based on the Rolled-In method. The Company was then ordered to reduce its revenues by $85.36 million for rates effective March 1, 1999.

G. 1999 ScottishPower Merger, Docket No. 98-2035-04

On December 31, 1998, PacifiCorp and ScottishPower filed an application requesting approval of ScottishPower's acquisition of PacifiCorp. On November 23, 1999, the Commission approved the merger subject to a number of conditions including the requirement that Scottish Power and PacifiCorp assume all risks that may result from less than full system cost recovery if interjurisdictional allocation methods differ among PacifiCorp's various state jurisdictions.

H. 1999 General Rate Case, Docket No. 99-035-10

On May 24, 2000, the Commission approved a rate increase of $17 million for PacifiCorp. This rate case was based on the Rolled-In method.

I. 2000 Structural Realignment Proposal ("SRP"), Docket No. 00-035-15

On December 1, 2000, the Company filed an application for Commission approval to implement a corporate restructuring that would reorganize itself into six distribution companies, a generation company and a service company. The Company cited seven developments that caused it to conclude that a change in company structure was necessary. These developments included: (1) direct access initiatives in Oregon and elsewhere; (2) the need to provide independent control of the Company's transmission assets, consistent with expectations of FERC; (3) fundamental changes in wholesale power markets and the risk of generation supply shortages; (4) industry consolidation; (5) the divergent policy goals of the state commissions that regulate the Company; (6) the limitations of traditional cost-of-service regulation; and (7) the breakdown of the Company's interjurisdictional allocation process.

The Company stated the continued gridlock over interjurisdictional allocations resulted in the Company continuing to suffer a material earnings shortfall, and created disincentives for future infrastructure investment. The schedule in this docket was suspended on April 3, 2002 concurrently with a Commission order initiating the MSP.

J. 2001 and 2003 General Rate Cases, Docket Nos. 01-035-01, 03-2035-02

On September 10, 2001, the Commission approved a $40.5 million rate increase for PacifiCorp. The rate case was based on Rolled-In interjurisdictional cost allocations. On December 17, 2003, the Commission approved a revenue requirement stipulation authorizing a $65 million increase in PacifiCorp's Utah revenues effective April 1, 2004. The rate case was based on the Rolled-In method for interjurisdictional allocations.

In summary, the Rolled-In method was accepted by the Commission as early as 1990 as the benchmark or standard by which alternative allocation methods may be judged. The results of the PITA Consensus method were used to set rates in 1990, but the method itself was not adopted. The Accord method was used by PacifiCorp for reporting purposes for its semi-annual results of operations for the period 1993 to 1996, but never formally brought before the Commission for adoption. Since the 1989 merger, the only interjurisdictional allocation method adopted by this Commission has been the traditional, cost-based Rolled-In method, having adopted it in a 1997 case. The Rolled-In method has been used consistently in Utah since its adoption.

The December 2000 PacifiCorp filing for corporate restructuring began a renewed dialogue among the states. Ultimately, the states, concerned about potentially higher costs and loss of jurisdiction, encouraged the Company to seek other means of resolving its concerns that did not require a legal restructuring of the Company. In response, the Company filed its March 2002 application in Utah requesting the Commission initiate the MSP to investigate its concerns.

VI. DISCUSSION, FINDINGS AND CONCLUSIONS

A. The Problem

PacifiCorp provides retail electric service to more than 1.5 million customers in the western states of Utah, Oregon, Wyoming, Washington, Idaho and California. The retail rates in each state or jurisdiction are regulated by a state utility commission. PacifiCorp operates as a single integrated electric utility with transmission (high voltage) lines that interconnect these six states. PacifiCorp has generating plants located throughout the states that are used as a group of resources to provide electricity to retail customers in all six states. Integrated system costs are shown in the Load Growth Issues paper and the Dynamic Alternative paper to be substantially lower and more stable over time than separately operated systems due to greater flexibility afforded from diverse demand, supply and geographic characteristics, confirming that single system planning and operation provides lower costs to customers. Indeed, this expected outcome was the basis for the 1989 Utah/Pacific merger.

Since transmission lines and generating plants regardless of location are used to provide electricity to customers in all the states, the costs incurred and the wholesale revenues received from the use of those facilities must be divided among the six state jurisdictions. The dividing or apportionment of costs and revenues among the states is called interjurisdictional allocations. When different allocation methods are used in the six states (as is the current situation), PacifiCorp might recover more or less than its total costs through customer rates.

The advent of less than full system cost recovery is not new. The potential for cost recovery shortfall was anticipated at the time of each merger and directly addressed by merger conditions in past Commission orders. The September 28, 1988 Commission Order approving the Merger of Utah Power & Light Company and PacifiCorp imposed a number of conditions of the merger including:

> The Merged Company shall agree that PacifiCorp shareholders shall assume all risks that may result from less than full system cost recovery if inter-divisional allocations methods differ among the Merged Company's various jurisdictions.

The November 23, 1999 Commission Order approving the Scottish Power/PacifiCorp Merger adopted a Stipulation between Scottish Power, PacifiCorp, the Division and the Committee with a number of conditions of the merger including:

> Scottish Power and PacifiCorp agree that they shall assume all risks that may result from less than full system cost recovery if interjurisdictional allocation methods differ among PacifiCorp's various state jurisdictions. The DPU (Division) agrees to use its reasonable best efforts to reach agreement with other state regulators as to the interjurisdictional cost allocation methodology to be recommended to the respective state commissions. In the event the state regulators are unable to reach agreement or the DPU concludes that the methodology supported by any of the other U.S. regulatory states would cause actual or perceived financial harm or inequity (on the basis of projections at that time) to the ratepayers in Utah, the DPU may support or recommend such allocation methodology to the Commission as it determines to be appropriate. Scottish Power and PacifiCorp assume the risk of whatever allocation methodologies or decisions the Commission may adopt. In addition, Scottish Power and PacifiCorp assume all risks that may result from any difference among PacifiCorp's various state jurisdictions in respect of the conditions imposed by the different state commissions relating to this merger transaction.

Thus the Company's initial problem of inadequate cost recovery due to differing interjurisdictional allocation methods, although with an unclear magnitude, was directly addressed by its prior acceptance of merger conditions (*i.e.*, it willingly assumed the risk). However, the Company and parties believe the magnitude of the cost recovery problem and the impact on Utah ratepayers could potentially expand because of divergent state policies regarding cost responsibility for existing and future generation resources.

While the existing cost recovery gap is not new, we recognize two significant changes have occurred since our 1998 order in Docket No. 97-035-04. First, the Company, Division and Committee all testify that some aspects of the rules implementing Oregon's restructuring legislation are inconsistent with integrated system operation and traditional cost allocation practice. For example, the rules presume a fixed assignment of generating resources to Oregon and require market purchases rather than rate base additions to meet growing Oregon cost of service customer obligations. Second, the Company's system load and resource balance is dramatically different. The Company is no longer resource surplus relative to its loads and substantial investment is required going forward to meet service obligations and therefore agreement among the states on the sharing of the future costs is particularly important. Parties testify that studies continue to show lower costs and more stable rates with single system integrated planning and operation. We concur with this conclusion and continue to require long-run, least cost/risk acquisition of supply consistent with single integrated system planning and operation. Absent a resolution to the divergent states' policies, parties argue that the cost recovery uncertainty could harm both shareholders and customers. For example, to the degree the Company adds only market purchases in compliance with Oregon SB 1149 rules, it runs the risk of disallowance in prudency hearings in Utah; to the degree it complies with Utah requirements and adds rate base investments, it runs the risk of non-compliance with Oregon rules and possible cost disallowance there.

Least cost system expansion to meet growing service obligations requires infrastructure investment by the Company for which confidence of cost recovery is needed. Parties acknowledge the Company has conflicting incentives from the states in which it serves, especially regarding generation cost recovery. If left unresolved, this could lead to higher cost or less reliable service for customers or cost disallowances for the company. We concur and find that agreement among states on an interjurisdictional allocation method, consistent with least cost integrated system planning and operation and adequate and reliable service to customers, is a reasonable regulatory objective. However, the particular agreement must be fair, just and reasonable.

We conclude that the problem we are addressing and resolving in this docket is the potential impact of divergent states' policies on interjurisdictional allocation and integrated system planning and operation that could result in Company action that is inconsistent with long-run least cost, adequate and reliable service to customers.

B. Proposed Resolution of the Problem

The Division, the Committee, UAE, SLCAP and Crossroads agree the Revised Protocol, by itself, produces a substantial and unreasonable cost shift to Utah in the near term. Further, the parties all testify that forecasts can be wrong and therefore long-term impacts may be different than expected. In order to mitigate the near term cost impact and long-run uncertainties, the parties stipulate to rate mitigation measures and conditions to allow parties to withdraw support for the Revised Protocol should the future unfold in such a way that it produces rates in Utah that are no longer just and reasonable. PacifiCorp, the Division, the Committee, UAE, SLCAP, Crossroads, the AARP and the FEA submitted a written Stipulation to address these and other issues in this docket. The Stipulation, as discussed previously, supports the use of the Revised Protocol method in conjunction with the Rolled-In method and the rate mitigation measures for determining Utah revenue requirement.

Our consideration of the Stipulation is directed by Utah statutory provisions in 54-7-1 that encourage informal resolution of matters brought before the Commission. This consideration does not preclude the requirement in Utah Code 54-3-1 that all utility charges must be just and reasonable, as the Stipulation will ultimately have rate impacts on Utah customers. We also take direction from the Utah Supreme Court's decision in *Utah Department of Administrative Services v. Public Service Commission*, 658 P.2d 601 (Utah 1983)(hereafter Wexpro II). In Wexpro II, the Supreme Court approved resolution, through parties' stipulation, of a remanded controversy before the Commission. The Court noted that "The law has no interest in compelling all disputes to be resolved by litigation....The policy in favor of settlements applies to controversies before regulatory agencies, so long as settlement is not contrary to law and the public interest is safeguarded by review and approval by the appropriate public authority." 658 P.2d, at 613.

At the hearing, parties supported approval of the Stipulation. The Committee qualifies its support by offering a number of recommendations to address remaining concerns. No party opposed the Stipulation.

Parties testify that the MSP involved extensive examination by participants of many alternative approaches to the interjurisdictional allocation problem before settling on two competing alternatives. We recognize the significant analytical contribution of Utah parties in providing a comprehensive examination of the numerous and complex issues raised in this matter. The MSP participants could not agree on a single alternative and after further study and discussions, the Company initially proposed the Protocol method to resolve the impasse. After additional meetings of MSP participants, the Protocol method was revised resulting in the Company's filing of the Revised Protocol (previously described) as part of the Stipulation. It should be noted that the Revised Protocol method, even with the Stipulation, involves a cost shift from some states to other states, including Utah, and not just a reduction of the gap in cost recovery for the Company, and that Oregon, Washington and Wyoming will receive revenue requirement reductions both in the early years as well as in the net present value over the analysis period.

The Division cites a number of benefits, listed under positions of parties, that derive from the resolution of the problem through the Stipulation and states the rate mitigation measures are fair and in the public interest as they allow for small but reasonable cost impacts for ratepayers relative to providing greater clarity regarding cost recovery of future company investments.

PacifiCorp also cites a number of benefits, listed under positions of parties, to Utah customers of resolution of the problem through the Stipulation and states the net present value of forecasted revenue requirement impacts of the Revised Protocol to Utah for the Company's fiscal years 2005 through 2018 is 0.68 percent without the rate mitigation measures. The net present value of the economic impact on Utah for this period is 0.45 percent when the effect of the Stipulation's mitigation measures are included. Attached is a chart entitled "MSP Forecast of Percent Changes in Utah Revenue Requirement" showing, for the period 2005 through 2018 (the MSP analysis period), the forecasted annual percent impacts on Utah revenue requirement under the terms of the Stipulation. The Results of the Revised Protocol method, and the rate mitigation measures, are compared using the results of the Rolled-In method as a baseline. This chart presents the data that is the basis for the estimated long-run impacts to Utah.

UAE supports the Stipulation, and testifies it would not support the Revised Protocol method without the Stipulation's rate mitigation provisions, as a way to address potential harm to both ratepayers and the Company from increased capital costs and delays in infrastructure investments.

The Committee testifies to disadvantages of the Revised Protocol, citing issues with the hydro adjustment; treatment of seasonal resources; and the standing committee's directive to examine structural mechanisms to address load growth. The Committee makes recommendations, listed under positions of parties, to address these concerns. We will discuss these under the Conditions section. The Committee recognizes the infrastructure investments facing the Company and cites the principle of gradualism together with the protections of the Stipulation to justify its support of the Stipulation.

We find the forecasted impact on Utah of the Stipulation with its rate mitigation measures, is reasonable. Approval of the Stipulation, if followed by other states' adoption of the Revised Protocol, will put into place a common allocation practice among the states consistent with single system planning and operation and therefore will help the Company gain confidence to make the infrastructure investments necessary to provide reliable and low cost electric service. In line with UAE's comments, the Company's sharing of the financial impacts on Utah of the Revised Protocol is supported by its voluntary prior acceptance of the risk of inconsistent interjurisdictional allocation methods. The limiting of the impact to Utah in the first few years due to the rate mitigation caps in the Stipulation means the Company may still have a gap in cost recovery for those years.

C. Conditions

The Company states it understands Commission approval of the Stipulation will not be binding on parties to future rate proceedings and challenges to its terms will have to be dealt with on their merits as they arise. The Company testifies forecasts are not always accurate predictions of the future and therefore parties are not bound to continue to support the Stipulation if circumstances change such that it no longer produces results that are fair, just and reasonable.

If the Revised Protocol is not adopted by all six states, the Company testifies it expects to move forward if approval is obtained from the four core states of Utah, Oregon, Wyoming and Idaho. The Company further states, if a court overturns a Commission's approval, the language of the Revised Protocol would cause the Revised Protocol not to be finally adopted in the other jurisdictions. Because of the unknown outcome of the multi-state approval process at this time, we will defer any implementation decisions that would have rate impact until the appropriate rate case.

As mentioned earlier, the Stipulation provides that parties may withdraw support in the event the Revised Protocol is rejected or materially conditioned by any Commission or court, or if the Rate Mitigation Measures are rejected or materially conditioned by this Commission or any court. If any party withdraws support for the Stipulation, that party may initiate a new proceeding to consider changing the allocation method.

Our approval of the Stipulation must be conditional. First, in the short term, the Revised Protocol must be adopted by the other PacifiCorp states without material change or conditions and must also survive any legal challenges. Second, in the long run, it must not result in significantly different impacts on Utah than now expected. If the projected savings to Utah in the later years, which substantially offset the increases in the early years, do not materialize, we may reconsider the further use of the Stipulation. As the Stipulation only covers the period through 2014, the Committee recommends that if the Revised Protocol method, after 2014, should ever result in Utah revenue requirement exceeding one percent more than that calculated using the Rolled-In method, the Commission should open a docket to reconsider the just and reasonableness of the Revised Protocol method. We expect that if that situation arises, either the Committee or another party would request the Commission to open such a docket. UAE testifies the Rate Mitigation Caps should continue to apply even after changes to the Revised Protocol. This position arises from the possibility that the MSP Standing Committee may propose changes to the Revised Protocol that state commissions may implement. Any impact of proposed changes to the Revised Protocol will be considered at the time changes are brought before us. The Stipulation cannot restrict future regulatory review and changes if it no longer produces results that are just, reasonable, and in the public interest.

In accordance with the previously mentioned Committee concerns regarding the treatment of seasonal resources under Revised Protocol, it is our intent that the MSP Standing Committee be asked to further examine the treatment of seasonal resources, including a review of the second GRID run approach. We concur with the Committee's recommendation and will require the Company to file with us regarding the materiality of possible harm to other states from a fast growing jurisdiction before taking a position before the MSP Standing Committee.

We recognize the dedicated efforts, the extensive work and the value added by the Utah parties as part of the MSP. We expect this work, such as the load growth paper previously cited, to be the starting point for future discussions at the MSP Standing Committee.

D. Change From Previous Orders

In the background section we discussed the adoption and subsequent use, by the Commission, of the Rolled-In method and its current, rather than historical, cost-causation rationale. The approval of the Stipulation and use of the Revised Protocol in conjunction with Rolled-In and rate mitigation measures in this case, would modify the results, going forward, of prior decisions to the degree those results differ from that produced from the current approved allocation method and rationale. UAE testifies that it supports these deviations from past practice in order to allow the Company a sufficient opportunity to earn its allowed return and thus be encouraged to make needed investments in infrastructure. The Division cites many benefits to Utah ratepayers of support of the Stipulation. The Committee testifies that some components of the Revised Protocol method are not cost-based and it sees no principled basis for supporting any type of permanent resource endowment for any group as the system uses the mix of resources to provide service to all customers jointly. The Committee believes the Rolled-In method is cost-based and that any deviation or increment above that for the purposes of reaching a multi-state agreement would be justified using the gradualism principle which has been used in the past by this Commission to limit rate impacts. The Committee notes adoption of the Revised Protocol, if it performs as expected, would result in a Utah revenue requirement equivalent to a Rolled-In method result in the 2012 time frame, effectively a 22-year transition to Rolled-In (starting with the 1990 order that established Rolled-In as a long-term goal). The Committee recommends that the Commission reaffirm that a traditional single-system, fully Rolled-In allocation method is the rate-making standard for determining cost causation and for evaluating whether a rate is just and reasonable.

As previously discussed, the Commission established the traditional Rolled-In method as the goal for interjurisdictional allocations fourteen years ago. The Rolled-In method and current cost-causation rationale was adopted in Utah in a 1997 case following lengthy, comprehensive proceedings and was reaffirmed by use in each rate case since then. The Revised Protocol is similar to Rolled-In, but differs in several ways. For example, the Revised Protocol makes ad hoc adjustments, such as the hydro adjustments, to the Rolled-In method to reach a multi-state resolution based on testimony in this case.

We note the Company's testimony that a gap in cost recovery has occurred at some time over the fifteen years since the Utah Power and PacifiCorp merger. We conclude that what has changed is the nature of the problem. The problem today has the potential to expand beyond the previous cost recovery gap, that was expected to decline, and threatens the continued least-cost single system planning and operation that has in the past provided significant benefits. The Load Growth Issues paper offers evidence of continued benefits of single system planning and operation. We recognize the problem articulated by the parties and find it important to work with the Company's other states to find an equitable resolution that will provide the Company the confidence to make needed investments in infrastructure and continue least-cost single system planning and operation. We find the Stipulation's use of Rolled-In and rate mitigation measures together with the Revised Protocol, which was unopposed at the hearing, is a reasonable resolution of the problem and with the protective conditions, will provide just and reasonable rates for Utah customers. We find that the principle-based, Rolled-In allocation method and current cost-causation, previously approved by this Commission, remains a valid benchmark to judge the reasonableness of future rates in Utah and will require the Company to continue to file Rolled-In results.

E. Class Cost of Service

Regarding the issue of the impact of the Stipulation and the Revised Protocol on customer classes, the Committee, PacifiCorp and UAE agree the record in this docket is not fully developed on this issue and the Order in this case should not try to resolve it. We concur. We further conclude the Revised Protocol only addresses interjurisdictional cost allocation which means class cost of service will be dealt with in other dockets such as general rate cases.

VII. ORDER

Wherefore, pursuant to our discussion, findings and conclusions made herein, we order:

1. The Stipulation and its use of the Revised Protocol and Rolled-In methods in conjunction with the rate mitigation measures is approved for use in determining Utah's jurisdictional revenue requirement, subject to the conditions described in the Discussion, Findings and Conclusions section of this order.

2. PacifiCorp shall continue to file in Utah its semi-annual results of operations using the Rolled-In method and shall continue to maintain all data necessary to calculate its Utah revenue requirement using this method.

This Report and Order constitutes final agency action on PacifiCorp's November 3, 2003, Application. Pursuant to U.C.A. §63-46b-13, an aggrieved party may file, within 30 days after the date of this Report and Order, a written request for rehearing/reconsideration by the Commission. Pursuant to U.C.A. §54-7-15, failure to file such a request precludes judicial review of the Report and Order. If the Commission fails to issue an order within 20 days after the filing of such request, the request shall be considered denied. Judicial review of this Report and Order may be sought pursuant to the Utah Administrative Procedures Act (U.C.A. §§63-46b-1 et seq.).

DATED at Salt Lake City, Utah, this 14th day of December, 2004.

/s/ Ric Campbell, Chairman
/s/ Constance B. White, Commissioner
/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#41944