

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of: The)
Application of PacifiCorp)
for an Investigation of)
Interjurisdictional Issues)

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission
 160 East 300 South
 Salt Lake City, Utah

DATE: November 8, 2011

TIME: 9:04 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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(The previous exhibits and related testimony were prefiled and are part of the PSC record and filed with the Commission.)

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1 NOVEMBER 8, 2011 9:04 A.M.

2 P R O C E E D I N G S

3 CHAIRMAN BOYER: This is the time and place
4 for the hearing set to hear a settlement stipulation
5 in Docket No. 02-035-04, captioned: In the Matter of:
6 The Application of PacifiCorp For an Investigation of
7 Interjurisdictional Issues.

8 Let's take, let's take appearances, and then
9 we'll tell you how we plan to proceed this morning.
10 Let's start with the Company, moving party.

11 MR. HICKEY: Thank you Chairman Boyer,
12 members of the Commission. Paul Hickey of Hickey &
13 Evans, Cheyenne, Wyoming, representing Rocky Mountain
14 Power. Along with Daniel Solander, senior counsel
15 from the Rocky Mountain Power Law Department.

16 CHAIRMAN BOYER: Thank you Mr. Hickey and
17 Mr. Solander. The Division?

18 MS. BURTON-LEE: Dahnelle Burton-Lee,
19 Assistant Attorney General, on behalf of the Division
20 of Public Utilities, with Dr. Artie Powell, the energy
21 section manager for the Division.

22 CHAIRMAN BOYER: Okay. Welcome
23 Ms. Burton-Lee. This is your first time, I think, in
24 the -- appearing before the full Commission, as I
25 recall. No?

1 MS. BURTON-LEE: This may be the second time.
2 I think I was here for the rate case, but thank you.

3 CHAIRMAN BOYER: Oh, were you? Oh. Must not
4 have been memorable.

5 MS. BURTON-LEE: That --

6 CHAIRMAN BOYER: Well, I apologize for --

7 MS. BURTON-LEE: Thank you.

8 CHAIRMAN BOYER: I apologize for that. We're
9 glad to have you here.

10 Mr. Proctor?

11 MR. PROCTOR: Paul Proctor on behalf of the
12 Office. And the Office's witness today will be
13 Ms. Beck.

14 CHAIRMAN BOYER: Okay, thank you. Okay,
15 going to my left.

16 MS. BALDWIN: Vicki Baldwin on behalf of
17 UIEC.

18 MR. DODGE: Gary Dodge on behalf of UAE. And
19 UA's wit -- UAE's witness in this matter is Neal
20 Townsend.

21 CHAIRMAN BOYER: Great. I saw Mr. Reeder
22 walking around the building earlier but he's not with
23 us today, is that?

24 MS. BALDWIN: He's not in the hearing room
25 today, no.

1 CHAIRMAN BOYER: Okay, good. All right.
2 Well, welcome. What we, I think, intend to do this
3 morning, what we would like to do, is hear all of the
4 witnesses supporting the stipulation first. And then
5 we'll permit cross examination of all of them in, sort
6 of in a panel format. And then the Commission can ask
7 questions. And then we'll have redirect, if any. And
8 then we'll turn to those opposing, if any. Is that
9 satisfactory?

10 MR. HICKEY: Certainly is to the Applicant.

11 MS. BURTON-LEE: Yes, Mr. Chair.

12 CHAIRMAN BOYER: Okay, thank you. Then
13 that's the way we will proceed. And we'll begin now
14 with the Company's witness, Ms. Kelly.

15 MR. HICKEY: Thank you, Mr. Chairman.
16 Obviously the Commission is familiar with Ms. Kelly,
17 and she will be summarizing the stipulation and has a
18 short summary of her other testimony.

19 CHAIRMAN BOYER: Okay. Have you been sworn
20 in this case, Ms. Kelly?

21 MS. KELLY: Not for many years.

22 CHAIRMAN BOYER: Who knows. It's been going
23 on for too many years. You probably have, but just to
24 be sure, let's -- would you raise your right hand,
25 please?

1 (Ms. Kelly was duly sworn.)

2 CHAIRMAN BOYER: Thank you. Please proceed,
3 Mr. Hickey.

4 MS. KELLY: Thank you. Good morning Chairman
5 Boyer, Commissioners Campbell and Allen. Thanks for
6 the opportunity to appear before you today.

7 As you all are well aware, this agreement
8 among parties is the culmination of discussions that
9 were initiated in November of 2008 by this Commission,
10 and by the other Utah parties through the MSP Standing
11 Committee process, related to concerns by Utah that
12 the revised protocol was not performing as was
13 expected when the Commission adopted the revised
14 protocol in 2004.

15 The discussions with the Standing Committee
16 included numerous conference calls, in-person
17 meetings, and resulted in an agreement in principle
18 among the four states of Utah, Idaho, Oregon, and
19 Wyoming in June -- July of 2010.

20 Based on this agreement in principle the
21 Company initiated filings in all four states in
22 October -- or September of 2010. The filings provided
23 limited amendments to the revised protocol. And those
24 were codified in the 2010 protocol.

25 The 2010 protocol is a simplified version of

1 the revised protocol. It starts with a rolled-in
2 allocation methodology as its base, and then applies
3 two adjustments: One related to the hydro endowment,
4 and one related to costs associated with the Klamath
5 Hydroelectric Settlement Agreement, or KHSA.

6 As proposed, the adjustment for Utah to the
7 rolled-in allocation methodology was a fixed negative
8 \$1 million per year for the duration of the 2010
9 protocol, which is proposed to be in effect for
10 filings made through December 31, 2016.

11 Given the amount of work and effort that has
12 been undertaken by the parties prior to the filing,
13 the procedural schedule in this case was somewhat
14 unique. The parties immediately went into a series of
15 settlement and technical conferences to try to resolve
16 the remaining issues.

17 Ultimately those settlement discussions
18 resulted in the agreement, which is signed by the
19 Company, by the Committee of Consumer Services, by the
20 Division of Public Utilities, and the Utah Association
21 of Energy Users. And that was filed with the
22 Commission in June of 2011.

23 The core elements to the agreement begin
24 generally in paragraph 8 of the agreement, and make
25 probably I guess five requests of the Commission in

1 its order.

2 The first is that the Commission adopt, for
3 purposes of setting rates in Utah, the 2010 protocol,
4 subject to the elements that are laid out in the
5 stipulation or the agreement. As proposed, the 2010
6 protocol would remain in effect through -- for filings
7 through December 31, 2016.

8 Paragraph 9 provides that, for purposes of
9 any such use of the 2010 protocol, that the hydro
10 endowment and the Klamath adjustment would be deemed
11 to net to zero for ratemaking purposes in Utah. This
12 provides Utah ratemaking at the economic equivalent of
13 rolled in.

14 Under paragraph 10 this requests that the
15 Commission explicitly acknowledge, once again, that
16 rolled-in allocations are the benchmark and starting
17 point for allocating costs to Utah for ratemaking
18 purposes. It also outlines how the Company can make
19 its filings in Utah during the duration of the 2010
20 protocol.

21 Paragraph 11 expressly reserves all rights by
22 parties with respect to the inclusion, timing, or
23 allocation of costs to Utah related to the Klamath
24 facilities. And this was a concern that I think was
25 also raised and discussed during the rate case that

1 was just approved by the Commission, or the
2 settlement.

3 And paragraph 13 outlines how the Company
4 will file its semiannual results of operations using
5 the 2010 protocol -- or I'm sorry, using the rolled-in
6 allocation methodology. And then providing the
7 calculation of the 2010 hydro endowment and Klamath
8 surcharge adjustment using test period data so that
9 parties can monitor the performance.

10 I think importantly there are three other
11 paragraphs that provide protections that further the
12 public interest of the agreement. Paragraph 3
13 explicitly acknowledges that nothing in the 2010
14 protocol shall limit or constrain the Commission from
15 its legal obligation to set rates that are fair, just,
16 and reasonable based upon the laws of Utah and the
17 different records and proceedings.

18 Paragraph 15 recognizes that any party to the
19 agreement may request that the Commission alter its
20 order or rescind its order if they determine that the
21 agreement and the 2010 protocol subject to its terms
22 no longer produces results that are fair, just, and
23 reasonable.

24 And then paragraph 18 explicitly acknowledges
25 that, that this agreement will not prejudge how

1 interclass cost allocations occur in the State of Utah
2 during ratemaking proceedings.

3 Based on these core elements, the Company
4 believes that the agreement in the 2010 protocol
5 results in a fair allocation of costs among its
6 jurisdictions. And believes that the agreement is,
7 therefore, in the public interest.

8 By way of update, the 2010 protocol has been
9 approved in the States of Idaho on August 31, 2011, in
10 Oregon on July 5, 2011, and in Wyoming on July 7,
11 2011.

12 In Oregon and Wyoming the adoption of the
13 2010 protocol did include all-parties settlements that
14 included some rate protection measures to ensure that
15 the variation between 2010 protocol and revised
16 protocol was consistent with the expectations as set
17 out.

18 I want to thank the Commission, all the Utah
19 parties. This has been a long process. And folks
20 have worked creatively and in good faith to try to
21 reach an agreement that's acceptable to all four
22 states. And hopefully we've been able to accomplish
23 that.

24 It's a good example of how the standard
25 committee process was designed to work and should work

1 in the future. And appreciate your leadership in that
2 regard.

3 I'm available for any questions. Thank you.

4 MR. HICKEY: Mr. Chairman, we just had a
5 housekeeping issue to confirm onto the record that all
6 of Ms. Kelly's prefiled testimonies, which would be
7 first of all that supporting the application, secondly
8 her testimony supporting the stipulation, and thirdly
9 her testimony responding to the comments of UIEC, all
10 be a part of the record, together with the exhibits
11 attached to those testimonies.

12 And I would note, Mr. Chairman, that the
13 other company witnesses, Mr. Duvall and Mr. McDougal,
14 are in attendance today should the Commission have any
15 questions for those witnesses who also prefiled
16 testimony.

17 CHAIRMAN BOYER: Okay. Thank you,
18 Mr. Hickey. They are in the record. But is there any
19 objection then to Ms. Kelly's testimony -- the three
20 pieces of testimony, written testimony, being admitted
21 into evidence?

22 MS. BURTON-LEE: No, your Honor.

23 CHAIRMAN BOYER: Okay, they are admitted. So
24 we're covered both ways, I think, on her testimony,
25 Mr. Hickey. Thank you.

1 (Testimony and exhibits of Andrea Kelly were
2 admitted.)

3 MR. HICKEY: Can we also then ask that the
4 testimonies of Mr. McDougal and Mr. Duvall be received
5 in evidence?

6 CHAIRMAN BOYER: Thank you. Any objection to
7 the admission of Mr. McDougal's and Mr., um.

8 MR. HICKEY: Duvall.

9 CHAIRMAN BOYER: And Mr. Duvall's testimony?

10 MS. BURTON-LEE: No objection.

11 CHAIRMAN BOYER: Anybody?

12 MR. DODGE: No.

13 CHAIRMAN BOYER: Okay. They are admitted as
14 well.

15 (Testimony and exhibits of Mr. McDougal and
16 Mr. Duvall were admitted.)

17 MR. HICKEY: Thank you Mr. Chairman.

18 CHAIRMAN BOYER: And you have no further
19 witnesses, Mr. Hickey?

20 MR. HICKEY: We do not.

21 CHAIRMAN BOYER: Thank you. Let's turn now
22 to Ms. Burton-Lee for her second appearance here.

23 MS. BURTON-LEE: Thank you. The Division
24 would call Dr. Artie Powell. And I believe Dr. Powell
25 has testified before the Commission but has not been

1 sworn in in this proceeding. And we need to do that.

2 CHAIRMAN BOYER: Let's do that at this point,
3 then.

4 (Dr. Powell was duly sworn.)

5 CHAIRMAN BOYER: Thank you, please be seated.
6 You may proceed, Ms. Burton-Lee.

7 DR. ARTIE POWELL,

8 called as a witness, having been duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. BURTON-LEE:

12 Q. And Dr. Powell, could you state your name and
13 address for the record?

14 A. Artie Powell. Artie Powell. It's 160 East
15 300 South, Salt Lake City.

16 Q. And have you testified before the Public
17 Service Commission before?

18 A. Yes.

19 MS. BURTON-LEE: At this time the Division
20 would move to admit Dr. Powell's written prefiled
21 testimony, along with the exhibits, as they were filed
22 with the Commission, as exhibits in this proceeding
23 today.

24 CHAIRMAN BOYER: Are there any objections to
25 the admission of Dr. Powell's prefiled written

1 testimony, together with exhibits?

2 Very well, they are admitted.

3 (Testimony and exhibits of Dr. Powell were
4 admitted.)

5 Q. (By Ms. Burton-Lee) Dr. Powell, do you have
6 a summary of your prefiled written testimony to
7 present today?

8 A. Yes.

9 Q. And would you proceed?

10 A. Okay. Good morning and thank you for this
11 opportunity, Commissioners. My statement will be very
12 brief. I think Ms. Kelly covered the settlement
13 agreement fairly well, so.

14 In my testimony, starting on about page 19,
15 the Division summarized -- or I summarized the
16 Division's position in support for the 2010 protocol.
17 Under the 2010 agreement which is before the
18 Commission this morning Utah's allocated share, as
19 Ms. Kelly pointed out, would be equivalent to a
20 rolled-in allocated share.

21 The Division believes that this is consistent
22 with the Commission's longstanding policy that the
23 rolled-in methodology is the benchmark by which to
24 judge other allocation methodologies. And that
25 current cost causation and usage is the preferred

1 basis for interjurisdictional allocations. The
2 Division fully supports these two principles of
3 interjurisdictional allocations for ratemaking
4 purposes in Utah.

5 As Ms. Kelly went over, the costs associated
6 with the Klamath Dam removal was an issue in the
7 general rate case that was just concluded. As part of
8 that rate case settlement those costs were removed
9 from the case and are not reflected in rates at this
10 time.

11 As the agreement points out, the Company can
12 bring those costs back for recovery in future cases,
13 but all the parties are -- have reserved their rights
14 to take whatever positions on those costs as they see
15 fit at that time.

16 It's been a long time and a long process
17 getting to this point, but the Division believes that
18 this agreement reflects a rolled-in allocation and is
19 in the public interest, and therefore we recommend
20 that the Commission adopted the agreement as proposed
21 by the parties. Thank you.

22 Q. Is that your complete testimony, Dr. Powell?

23 A. That's my summary of my position.

24 Q. Okay, thank you.

25 CHAIRMAN BOYER: Thank you Dr. Powell.

1 Any further witnesses, Ms. Burton-Lee?

2 MS. BURTON-LEE: No, Mr. Chair.

3 CHAIRMAN BOYER: Let's turn now to the
4 Office. Mr. Proctor, your witness?

5 MR. PROCTOR: Thank you, Mr. Chairman. I
6 believe Ms. Beck needs to be sworn. And in addition
7 the Office would move that her August 18, 2011, direct
8 testimony be entered into the record.

9 CHAIRMAN BOYER: Very well, let's swear
10 Ms. Beck first.

11 (Ms. Beck was duly sworn.)

12 CHAIRMAN BOYER: Thank you. Is there any
13 objection to the admission of Ms. Beck's prefiled
14 written testimony into evidence?

15 Apparently not. It is admitted.

16 (Testimony of Michele Beck was admitted.)

17 MS. BECK: My name is Michelle Beck, I'm the
18 director of the Office of Consumer Services. My
19 business address is 160 East 300 South, Salt Lake
20 City, Utah.

21 I participated on behalf of small commercial
22 and residential customers in this proceeding. The
23 customers that the Office is -- has a responsibility
24 of representing. And we analyzed the settlement from
25 that same perspective.

1 As explained in my testimony in more detail,
2 the Office asserts that the settlement is just and
3 reasonable in result and we recommend approval.

4 A couple of key points is that it essentially
5 results in Utah rates being set using the rolled-in
6 allocation methodology, which we believe is the only
7 methodology by which just and reasonable rates can be
8 achieved now that we have an energy balancing account
9 in place.

10 And also it expressly reserves the rights of
11 parties to challenge inclusion in Utah rates of any
12 costs that are associated with the Klamath
13 hydroelectric settlement agreement, including the
14 costs that are described in the agreement as "Klamath
15 rate impacts." And I believe the Office has clearly
16 articulated its position regarding those costs in the
17 last rate case.

18 So those are the key provisions for us. And
19 we support the settlement and recommend approval.

20 CHAIRMAN BOYER: Thank you, Ms. Beck.

21 Any further witnesses, Mr. Proctor?

22 MR. PROCTOR: No, thank you.

23 CHAIRMAN BOYER: Ms. Baldwin, you do not have
24 a witness, I guess?

25 MS. BALDWIN: No, we do not have a witness.

1 CHAIRMAN BOYER: Okay. Let's turn now to
2 Mr. Dodge, then, and your witness, Mr. Townsend.

3 MR. DODGE: Thank you Mr. Chair. UAE
4 would -- well, first of all Mr. Townsend should be
5 sworn in. I don't think he's been sworn in this
6 docket.

7 (Mr. Townsend was duly sworn.)

8 CHAIRMAN BOYER: Thank you Mr. Townsend. You
9 may proceed now with the evidence -- or testimony.

10 NEAL TOWNSEND,

11 called as a witness, having been duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DODGE:

15 Q. Mr. Townsend, does the direct testimony of
16 Neal Townsend filed on August 18th in this docket
17 represent your testimony here this morning?

18 A. Yes.

19 MR. DODGE: I move the admission of that
20 testimony.

21 CHAIRMAN BOYER: Is there any objection to
22 the admission of Mr. Townsend's prefiled written
23 testimony?

24 MS BURTON-LEE: No objection.

25 CHAIRMAN BOYER: It is admitted. Thank you.

1 (Testimony of Neal Townsend was admitted.)

2 MR. DODGE: Thank you.

3 Q. (By Mr. Dodge) Mr. Townsend, would you
4 please tell us who you are and give a brief summary of
5 your testimony?

6 A. My name is Neal Townsend. I'm a senior
7 consultant at the firm of Energy Strategies. We
8 represent the UAE intervention group. My business
9 address is 215 South State, Suite 200, Salt Lake City,
10 Utah.

11 In my testimony I provide a brief historical
12 perspective on some of the interstate cost allocation
13 issues, a quick summary of the changes to the 2004
14 revised protocol, and a little bit of a summary of the
15 MSP agreement that's the subject of this hearing
16 today.

17 I further explain why in UAE's position --
18 opinion that the MSP agreement is in the public
19 interest. This support is based on two fundamental
20 rationals: First UAE supports a consist -- generally
21 consistent allocation method amongst PacifiCorp's
22 states. And we believe that the MSP agreement, if
23 it's approved, would further that cause of having a
24 consistent allocation method amongst the states.

25 Our second reason is with the Commission's

1 approval of the EBA pilot that we have argued that the
2 allocation method in Utah should match risk and
3 rewards. We believe using the rolled-in methodology
4 supports that position. And that concludes my
5 testimony.

6 CHAIRMAN BOYER: Thank you Mr. Townsend.

7 Are there other parties who wish to speak in
8 favor of the stipulation? Okay. Are there parties
9 who wish to cross examine any of the witnesses who've
10 testified this morning?

11 MS. BALDWIN: UIEC would like to cross
12 examine.

13 CHAIRMAN BOYER: Very well. You may proceed.

14 MS. BALDWIN: First PacifiCorp's witness?

15 ANDREA L. KELLY,

16 called as a witness, having been duly sworn,
17 was examined and testified as follows:

18 CROSS EXAMINATION

19 BY MS. BALDWIN:

20 Q. Ms. Kelly, could you -- you mentioned that
21 Idaho, Oregon, and Wyoming also have a 2010 protocol.
22 Do Washington and California have a 2010 protocol?

23 A. No. Washington did not adopt the revised
24 protocol back in 2004. It's been on a separate
25 allocation methodology. That is up for review in June

1 of 2012.

2 In California, because we're so small, we
3 don't do a separate proceeding for adoption of the
4 allocation methodology. Instead we do it during the
5 rate case. And we're on a three-year rate case cycle
6 in California, so we'll be filing under the 2010
7 protocol at the end of this year. Or no, sorry, the
8 end of next year, in 2012, for rates effective
9 January 1, 2014.

10 Q. And will -- so are these all 2010 protocols?

11 A. Yes. We will file under the 2010 protocol in
12 California. What happens in Washington is up in the
13 air, given where the Commission has ruled in the past.

14 Q. And so is their allocations different than
15 the other states?

16 A. Yes. It has been since 2005. I think, as
17 the Commission's aware, Washington adopted what's
18 known as the West controlled area allocation
19 methodology, where they only recognize assets that sit
20 within the -- physically within the west control area.

21 Those do include some assets outside of
22 California, Washington, and Oregon, such as the Jim
23 Bridger Plant and coal strip. But for the most part
24 they're just looking at the west side assets rather
25 than the east side.

1 Q. Are the terms of the 2010 protocols in each
2 of the states identical?

3 A. The terms of the 2010 protocol are identical.
4 But in each state, as I mentioned earlier, there were
5 all-parties stipulations in both Wyoming and in
6 Oregon. That included rate indication measures
7 similar to what this Commission adopted under the
8 revised protocol.

9 And in Idaho there was not an all-parties
10 settlement, but the Commission adopted the 2010
11 protocol subject to resolution of these issues that
12 we've been working on. And that's noted in the
13 stipulation associated with the Idaho irrigation
14 program and whether that should be system allocated or
15 situs allocated.

16 Q. In paragraph 3, as you mentioned, it states
17 that:

18 "Nothing in the 2010 protocol shall
19 abridge any State's right and/or
20 obligation to establish fair, just, and
21 reasonable rates based upon the law of
22 that State and the record established in
23 rate proceedings conducted by that
24 State."

25 Is it your position, therefore, that the

1 adoption of this agreement by the Commission does not
2 bind the Commission?

3 A. No. The Commission always has the obligation
4 and the right to set rates based on what's going to
5 establish fair, just, and reasonable rates.

6 What it does set forth is a framework that
7 would allow parties to do what was done this time,
8 which is to raise their concerns with the Standing
9 Committee. Look at any opportunities there might be
10 to resolve those issues in a way that works for all,
11 all four states. And ultimately, if that can't occur,
12 then the Commission may have to act unilaterally.

13 Q. So are you saying there's a procedure that
14 has to be done by parties and/or the Commission before
15 any changes can be made?

16 A. No, it does not have to be done. But the
17 parties agree, and the Commission, if it adopts the
18 2010 protocol, it -- the -- it basically is a best
19 effort, an endeavor, to cause those issues to be
20 raised in front of the Standing Committee.

21 But if the Commission determines in a
22 specific rate proceeding that adoption of the 2010
23 protocol would not result in fair, just, and
24 reasonable rates it's its legal obligation to act in
25 the manner that it sees fit.

1 Q. So do you see any kind of prerequisites that
2 the obligation -- I'm sorry, that the agreement
3 obligates parties and/or the Commission in any rate
4 case in raising any issues? Does it set any
5 prerequisites?

6 A. I don't understand the question. Could you
7 rephrase it?

8 Q. If someone had a position that they wanted to
9 raise certain allocation factors that were not
10 included in the 2010 protocol or were different from
11 the 2010 protocol, is it your position that
12 something -- this agreement causes some prerequisite
13 to be done before those can be presented and/or
14 adopted?

15 A. It recognizes a good faith effort to try to
16 work through the issues before they're brought into a
17 rate case.

18 Q. So in, other words then, it does obligate the
19 Commission and it does obligate parties?

20 MR. HICKEY: Object, asked and answered,
21 Mr. Chairman. I think at least twice.

22 CHAIRMAN BOYER: You want to try rephrasing,
23 Ms. Baldwin?

24 Q. (By Ms. Baldwin) If in a rate case or before
25 a rate case someone has to go to the Standing

1 Committee and make a presentation and try to make a
2 best effort to make a modification in
3 interjurisdictional allocations, isn't that some type
4 of an obligation being placed on the parties and/or
5 the Commission?

6 A. Again, I think I've answered the question.
7 If you look at page 14 -- 13 and 14 of the 2010
8 protocol, it says:

9 "A party's initial support or
10 acceptance of the 2010 protocol will not
11 bind or be used against that party in
12 the event that unforeseen or changed
13 circumstances cause that party to
14 conclude that the 2010 protocol no
15 longer produces just and reasonable
16 results.

17 "Prior to departing from the terms
18 of the 2010 protocol, consistent with
19 their legal obligations, commissions and
20 parties will endeavor to cause their
21 concerns to be presented at meetings of
22 the MSP Standing Committee and
23 interested parties from all States in an
24 attempt to achieve consensus on a
25 proposed resolution of those concerns."

1 MS. BALDWIN: No further questions for
2 Ms. Kelly.

3 CHAIRMAN BOYER: Okay. Thank you, Ms. Kelly.
4 Do you wish to cross examine other witnesses,
5 Ms. Baldwin?

6 MS. BALDWIN: Yes, I would like to cross
7 examine Dr. Powell.

8 DR. ARTIE POWELL,
9 called as a witness, having been duly sworn,
10 was examined and testified as follows:

11 CROSS EXAMINATION

12 BY MS. BALDWIN:

13 Q. Dr. Powell, is it your position that the 2010
14 protocol agreement does or does not bind the
15 Commission to act in a certain way during a rate case?

16 A. Could you define what you mean by "bind"?

17 Q. Is the Commission obligated to perform under
18 certain conditions pursuant to this agreement?

19 A. No, I don't believe so.

20 Q. Thank you.

21 MS. BALDWIN: I would like to ask Ms. Beck
22 the same question.

23 MS. BECK: I'll be happy to answer, but
24 you'll have to repeat it.

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MICHELE BECK,

called as a witness, having been duly sworn,
was examined and testified as follows:

CROSS EXAMINATION

BY MS. BALDWIN:

Q. Do you believe -- or is it your position that the Commission is bound by the terms of this agreement?

A. I believe that's gonna depend in part on how they frame the order that they write, but it's not necessarily the case. I think we're ordering on a, on a settlement.

Q. Do you believe that the Commission has the obligation to act on setting rates in a just and reasonable manner, regardless of this agreement?

A. Yes, I do.

MS. BALDWIN: Thank you.

CHAIRMAN BOYER: Anything further, Ms. Baldwin?

MS. BALDWIN: Just Mr. Townsend. Same question.

MR. TOWNSEND: Could you restate it, please?

MS. BALDWIN: Yes.

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NEAL TOWNSEND,

called as a witness, having been duly sworn,
was examined and testified as follows:

CROSS EXAMINATION

BY MS. BALDWIN:

Q. Do you believe that this agreement places any type of obligation on the Commission to act in a certain way during -- and under certain conditions during rate cases in setting rates in Utah?

A. I believe this Commission has to set just and reasonable rates in a rate case, and whatever that implies.

Q. Regardless of the terms of this agreement?

A. Regardless of the terms of this agreement.

MS. BALDWIN: Okay, thank you. No further questions.

CHAIRMAN BOYER: Thank you Ms. Baldwin. Does anyone -- any other party wish to cross examine any of the witnesses?

All right. Let's turn now to the Commission, see if the Commissioners have any questions of the proponents of the stipulation. Commissioner Allen?

COMMISSIONER ALLEN: (Indicates in the negative.)

COMMISSIONER CAMPBELL: No.

1 CHAIRMAN BOYER: I have just a couple of
2 questions. In the -- prior to the 2010 protocol --
3 and I guess I'll just address this generally at
4 everyone who's spoken today. There were a couple of
5 kinds of resources that are allocated costs on a site-
6 specific basis, DSM and some, you know, excess costs
7 on QFs, and so on and so forth.

8 The 2010 protocol creates an additional, I
9 guess, classification of resource called "state-
10 specific initiatives." I wonder if the parties
11 considered those and could tell me their -- give me
12 their -- that they have or have not considered that
13 new -- what appears to me to be a new classification
14 of resources for which costs would be allocated on a
15 state-specific basis.

16 It's not mentioned in the stipulation or -- I
17 think it was referenced very briefly by Ms. Kelly in
18 her direct testimony. By no one else. Did anyone
19 think about that?

20 MS. KELLY: This is --

21 CHAIRMAN BOYER: Ms. Kelly.

22 MS. KELLY: -- Andrea Kelly. Just to
23 clarify, the types of resources that this reflects are
24 generally programs that are already in existence in
25 many of our states, in respect to feed-in tariffs that

1 are ordered by the Commissions that are funded on a
2 state-specific basis.

3 They also apply to solar incentive programs.
4 For example, in California we offer a solar incentive
5 credit. And that's funded solely by the customers in
6 California. There's also a smaller one here in Utah
7 as well.

8 So the -- and then the acquisition of
9 renewable energy certificates. For example, that
10 would be to -- in California, where the RPS standard
11 is higher than any other state, we will be out
12 purchasing renewable energy certificates for
13 California and assigning all of the costs of those to
14 California customers.

15 So it's trying to capture activities that the
16 Company is doing already in its states where the costs
17 are driven by a, generally a legislative mandate.

18 CHAIRMAN BOYER: A state policy?

19 THE WITNESS: Yes.

20 CHAIRMAN BOYER: Okay, thank you. Are there
21 parties who oppose the stipulation?

22 MS. BALDWIN: Chairman, UIEC does not oppose
23 the stipulation; however, we do have reservations
24 about the stipulation, as probably evident from my
25 cross examination questions.

1 We believe that the Commission has the
2 obligation and the authority to issue an order
3 determining what interjurisdictional allocation will
4 be done at any time, without such an agreement.

5 And we do oppose the idea that such an
6 agreement can be interpreted to place any type of
7 obligation or prerequisite on the Commission, or on
8 any party who would want to suggest modifications in
9 interjurisdictional allocation.

10 CHAIRMAN BOYER: Okay, thank you Ms. Baldwin.
11 We, I think we understand your position, and I think
12 you've made a good record on your point. And you have
13 some testimony on your point, as a matter of fact.

14 Is there anything further we need to consider
15 this morning? Mr. Hickey?

16 MR. HICKEY: We have no further evidence,
17 Mr. Chairman. I would, in light of the near-
18 unanimous -- acknowledging the position that
19 Ms. Baldwin just stated on behalf of her client -- but
20 the near-unanimous support for the stipulation and
21 agreement we would encourage the Commission, if it's
22 part of your practice, to enter what some
23 jurisdictions call a "bench order."

24 Given the passage of time, the Company would
25 appreciate it. But we're obviously at your mercy as

1 to what your timelines will allow you to do.

2 CHAIRMAN BOYER: Thank you Mr. Hickey. Let's
3 take a brief recess, maybe 10 or 15 minutes, and we'll
4 see if we can do that very thing. Thank you.

5 (A recess was taken from 9:38 to 9:43 a.m.)

6 CHAIRMAN BOYER: We've deliberated in my
7 office and have decided to approve the stipulation as
8 proposed. And we will draft and issue an order as
9 soon as we can get it out.

10 Thank you all for your participation and your
11 good efforts in arriving at this stipulation. It's a
12 difficult issue and we've been dealing with it for a
13 long, long time. Let's hope this works. Thank you
14 all.

15 MR. HICKEY: Thank you Chairman and members
16 of the Commission.

17 (The hearing was concluded at 9:43 a.m.)

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