

Before The Public Service Commission of Utah

<p>In The Matter Of The Application Of PacifiCorp For Approval Of Its Proposed Electric Service Schedules And Regulations</p>	<p>Docket No. 04-035-42 DPU Exhibit 7.0R</p>
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Rebuttal Testimony

Andrea Coon

Division of Public Utilities

January 14, 2005

Q. Please state your name and employer for the record.

A. My name is Andrea Coon. I am employed by the Division of Public Utilities (Division).

Q. Are you the same Andrea Coon that previously filed Direct Testimony and Addendum to Direct Testimony in this docket?

A. I am.

Q. What is the purpose of your rebuttal testimony?

A. My purpose is twofold. First, I will very briefly address the Division's current position on Net Power Cost issues in this docket. The Division's position on NPC issues will be addressed fully in its Surrebuttal testimony after the Division has had an opportunity to review PacifiCorp's Rebuttal testimony addressing NPC.

Second, I will briefly address the Division's investigation into issues surrounding PacifiCorp's extension of the West Valley lease. At this time I will not be making a recommendation, because my investigation into the lease extension is still ongoing. Thus, the Division's recommendation on the West Valley Facility will be outlined in Surrebuttal testimony.

Q. Has the Division examined issues raised regarding NPC by other parties in this docket?

A. Yes. The Division has examined the issues regarding NPC raised in the testimony of Ronald Binz, AARP, Neal Townsend and Richard Anderson, UAE, and Phil Hayet, Anthony Yankel, and Randy Falkenburg, Committee of Consumer Services. The other parties listed above discussed issues that I will break down into three general areas which I will discuss below: the Aquilla hydro hedge; Grid based inputs, outputs, and assumptions; and the West Valley lease. I will briefly address these issues in the order listed above.

Q. Has the Division made a determination as to the recommended treatment of the Aquilla Hedge?

A. Yes. The Division has determined that PacifiCorp has not adequately demonstrated benefits to ratepayers for this hedge. Absent this demonstration, the Division cannot recommend cost recovery of the hedge costs. This would constitute an additional disallowance not listed in direct testimony of \$1.75 million total company.

Q. Has the Division made a determination concerning adopting which, if any NPC adjustments proposed by other parties?

A. We have not. Although we have examined the adjustments proposed by the other parties, we have not made a final decision as to which of these adjustments we will adopt in our case. PacifiCorp has informed the Division that the update that will be filed in the Company's rebuttal will address numerous issues brought up by the Division as well as by other parties. It is the Division's intention to examine this update as well as the accompanying testimony before making a final decision as to which adjustments to adopt.

Q. Has the Division performed an investigation into the Company's extension of the West Valley lease?

A. We have been investigating this issue. The investigation, however, is still ongoing. Although Division personnel did examine the lease during the last rate case, the issue was never heard before the Commission because the case was settled. We feel that since the West Valley lease is facing its first hearing in front of the Commission, the investigation into prudence needs to be as thorough and accurate as possible.

Q. Other parties have filed testimony on the West Valley lease in this proceeding. Has the Division examined that testimony and come to any conclusions regarding its validity?

A. We have. Both UAE and the Committee of Consumer Services filed testimony regarding the West Valley lease; both also proposed adjustments to the Revenue Requirement to compensate for what they believed to be imprudence or faulty

judgment on the part of PacifiCorp. I will address first the issues raised by Committee witness Falkenberg and then address issues raised by UAE witnesses Anderson and Townsend.

First, Mr. Falkenberg based his decision of imprudence upon his “analysis of the project starting from the initial decision to sign the West Valley lease, to the recent evaluation of the early termination option contained in the lease.”¹ The Division disagrees with Mr. Falkenberg’s initial assumption that a prudence evaluation should be based upon the initial decision to sign the lease because PacifiCorp had served a notice of intent to terminate the lease on May 28, 2004. Instead, we believe that the prudence evaluation should be made based upon the recent activities of an RFP issuance and evaluation that led to the withdrawal of the notice of intent. This withdrawal, in essence, was akin to signing a new agreement. Therefore, the Division is basing its prudence evaluation on recent Company actions. Prior actions will be taken into account only as far as recent actions were affected or influenced by the prior ones.

The second issue that I would like to address from Mr. Falkenberg’s testimony is his statement that the FERC standard for affiliate contracts is that the bidding process must be “above suspicion.” The Division will not be using this standard, however. Instead we will be using the standard set forth by the Commission in the order for Dockets 03-057-05, 01-057-14, 99-057-20, 98-057-12. The Commission states that,

...we must analyze the decision making process in light of the circumstances and the facts that the utility know or reasonably should have known at the time of the decision. We do not substitute our judgment in hindsight for the reasonable decisions made by management, nor do we determine that a reasonable decision is imprudent merely because we conclude that a better, reasonable alternative was available for consideration or action. However, neither do we presume affiliate transactions to be reasonable. ...while we do not presume affiliate transactions to be biased, we view customers’ interests as paramount and will require in all instances that those interests not be subordinated to the interests of corporate affiliates. Order at page 20.

¹ Docket 04-035-42, CCS-6, page 16, at lines 12-15.

The third issue raised by Mr. Falkenberg that I would like to address at this time is that the Company did not make a “good faith effort to take advantage of the early termination option.”² The Division is currently investigating this issue and will be addressing it further in Surrebuttal testimony. A good faith effort in the RFP 2004-X process would be required for the lease renewal to be deemed prudent.

The fourth issue raised is that of the RFP timing.³ Again, this is an issue that the Division is currently examining, because timing is a key element into a “good faith effort.” A careful examination of timing is also necessitated because it is critical to determine whether or not important and costly issues may be slipping through cracks and not receiving the timely attention needed to insure decisions that are beneficial to ratepayers.

Mr. Falkenberg also outlined several smaller issues in each of the larger categories as discussed above. The Division will be closely examining his assertions before reaching a conclusion.

The UAE witnesses also addressed issues relating to the West Valley lease. I will respond to these issues beginning with those outlined in the testimony of Mr. Anderson, followed by those addressed by Mr. Townsend. The main issue addressed by Mr. Anderson is that of resource planning, specifically timing associated with building resources. Mr. Anderson argues that if PacifiCorp had engaged in proper planning in the late 1990’s and 2000 (RAMPP 5 and 6), that different, less expensive resources could have been procured rather than Gadsby, West Valley, and Currant Creek. While the Division definitely agrees that the Company’s resource planning was severely lacking in the time frame mentioned, we do not necessarily agree that this is the appropriate place to begin examining prudence of West Valley, as explained above.

Unfortunately, poor past performance has a detrimental effect for at least some time into the future. We experienced the truth of this statement when the Company found itself severely short of capacity and depending on the market

² Docket 04-035-42, CCS-6, page 25, at lines 21-22

³ Docket 04-035-42, CCS-6, pages 26-31

during the western power crisis in 2001. Factors besides poor planning contributed to the shortage of course, but poor planning definitely increased the severity of the financial burden faced by the Company, and later by ratepayers. In limiting the number of dollars that the Company could recover related to this event, however, the intent of the Division was that the Company share the financial burden caused in part by its past lack of planning, in an attempt to induce it to do better in the future. The next planning cycle produced an IRP that was acknowledged by the Commission. Therefore, the Company has attempted to address its past planning shortfalls. Unfortunately, lack of planning is not something for which the effects are immediately alleviated when the planning problems are addressed. The lack of planning by the Company left it very short of capacity; it requested expedited treatment of the Gadsby and Current Creek plants to address this shortfall. The Division does not believe that the Company should continue to bear a financial burden for a poor performance for which it has already been penalized and that it is taking steps to address. We do, however, believe that West Valley is a resource that should be investigated in the context of the RFP 2004-X and the timing and planning associated with the issuance thereof. We also intend to conduct a full prudence review of the Current Creek plant once all costs associated with the plant are brought before the Commission for recovery.

The issues addressed by Mr. Townsend were costs related to the removal from the applicable areas of the West Valley lease and Current Creek facility. The Division has not yet determined whether any or all costs associated with the West Valley lease should be removed, and will address Mr. Townsend's testimony in its Surrebuttal testimony following such a determination.

Q. Please describe the Division's ongoing investigation into the West Valley lease.

A. The Division has recently obtained the models by PacifiCorp used to evaluate the bids received in response to RFP 2004-X. We will be evaluating these models to satisfy the question of whether the bid evaluation was fair. We will also continue

to examine documents associated with the timing of RFP 2004-X in order to determine if the West Valley lease is a prudent resource that should be allowed recovery during the test period.

Q. Does this conclude your rebuttal testimony?

A. It does.