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**MEMORANDUM**

**TO:** Public Service Commission  
**FROM:** Utah Division of Public Utilities  
Constance White  
Artie Powell  
George R. Compton  
John Gothard, Jr.

**DATE:** February 2, 2006

**RE:** Joint-Report of the DPU Representatives to the Test Period and Discovery Task Forces; Respectively, Docket No. 04-999-05 and 04-035-42.

**PREFACE**

The Lowell Alt-authored Memorandum (dated December 14, 2005) and Attachment constituting the “final Report of the Filing Requirements Subgroup of the Test Period Task Force” also constituted the official “Final Report of the Test Period Task Force.” As noted in the Alt memorandum, a consensus was not achieved on this matter, although there was general agreement regarding almost all particulars. (That success is manifest in the Filing Requirements Draft that was also attached to Mr. Alt’s memo.) Similarly, the “Discovery Taskforce Report” (filed on January 26, 2006) admitted to a failure to reach a consensus, but referred to “significant progress” being made -- evidenced by the fact that the “data and information to be specified in the Stipulation [regarding filings in the next PacifiCorp general rate case] will be based on the work of the Discovery Task Force.” This DPU Memorandum constitutes an individual party report that the Commission invited in the event of a failure to achieve a consensus.

## **RECOMMENDATION**

Given a) the progress that has been made this far in obtaining agreement regarding the timing and content of a test period determination process as well as what would constitute necessary filing requirements and orderly discovery, and b) the related additional practical knowledge that will be afforded by the impending PacifiCorp general rate case, it is hoped that the remaining, unresolved issues can be settled by parties quickly under the auspices of a re-convened task force(s) dedicated to that purpose. Hopefully its work can be completed by the time of the completion of the upcoming PacifiCorp general rate case. Failing that, the Division recommends that rule-making proceedings be conducted for the purpose of establishing filing requirements, discovery protocols, and the timetable and informational requirements associated with determining the appropriate test period in a general rate case.

## **DISCUSSION**

The Test Period Task Force came very close to reaching a consensus regarding a Test Year timetable, the information that would be made available at various points in that timetable, and the decision that would be produced at the end of that timetable. Most fundamental was the conditional agreement that, barring extenuating circumstances, a test year order would be issued no later than 65 days after a major energy utility's filing of a general rate case (GRC). The primary point of contention pertained to a key body of information that at least one party thought needed to be filed by the utility at the time of its GRC application.

In order to allow interveners a reasonable amount of time to investigate the test period matter, there was agreement regarding two kinds of GRC/test-year "warnings" that would be forthcoming early in the GRC process. The first – at least 30 days prior to a GRC filing – would simply be an announcement that such a filing would soon be forthcoming. The second warning – at least 14 days prior to a GRC filing – would specify what twelve month period would constitute the test year. The other key element of the proposed timetable would be a limit of 14 days following the filing of the GRC for any party to request a test year hearing.

The noted point of contention had to do with the scope of what would be filed in the case of a future test year (partially or fully). The utilities agreed to provide adjusted and unadjusted results of operation (RO) for the historical period for which the most current twelve months of data is available, plus an exhaustive set of inflation factors, known-and-measurables, budgeted plant additions, etc. that would stand behind the forecasts comprising its future test year results. The utilities claimed that such information would be sufficient for parties to develop their own test-year results for any period that was intermediate to the historical and company-forecasted future.

In the case of PacifiCorp, there was, by admission, one major exception to that capability: It is in the production of net-power-cost studies -- which capability only PacifiCorp possesses. At least one of the industrial parties insisted upon the future test year filing containing the net-power-cost studies and whatever additional information would be required to develop complete test year results for the twelve months that would be in the center of the fully historical period and whatever future period the filing utility elects. PacifiCorp has agreed to provide that information in the case to be filed in the Spring of 2006, but not necessarily as a general practice in future cases. Without that information being supplied concurrently with the originating GRC application, the noted industrial intervener was unwilling to agree to the 65 day time-frame.

### **CONCILIATION**

The Division's position on this matter lies somewhere between those of the contending parties as just described. We believe that the intermediate period net-power-cost study results and accompanying full test-period rate case work-up (whether utility supplied or intervener constructed) are not needed to establish the appropriate test year. Such a decision should be based on the merits of the credibility of the drivers of the purported cost changes, and not on the basis of the bottom-line revelations that would come from another revenue requirement development. (Such a full development could only come later in the GRC evaluation process in any event -- following a complete audit of the utility's data and projections.)

Having said that, we would a) agree with the aforementioned industrial party that the absence of an early-filed/constructed intermediate-period revenue requirement (with accompanying net-power-cost study) should in no wise be used as an argument (or excuse) by any party or by the Commission for choosing the as-filed, fully future test period over a partially historical, intermediate period; and b) insist from the utilities a commitment that in the event the Commission ruled in a particular case in favor of an intermediate period that the associated net-power-study and fully developed rate case work-up (including revenue requirement, cost-of-service, rate spread, and service price schedules) be provided to all parties of record (subject to any confidentiality constraints) within two weeks of the Commission's test period ruling. This seemingly brief turn-around period is required so that the intervening parties aren't handicapped in conducting their rate case audits and other studies within the legislated rate case time frame. If the utilities are not able to commit to such a time limit, then the Commission-ordered filing requirements should expressly include a fully developed rate case work-up that utilizes the intermediate/mid-period time frame.

cc: Service List