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State of Utah  
DEPARTMENT OF COMMERCE  
Office of Consumer Services

MICHELE BECK  
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To: Utah Public Service Commission

From: Office of Consumer Services  
Michele Beck, Director  
Béla Vastag, Utility Analyst

Date: October 24, 2017

Re: In the Matter of Rocky Mountain Power's 2017 Integrated Resource Plan  
Docket No. 17-035-16

### **I. Background**

On April 4, 2017, Rocky Mountain Power (the Company) filed PacifiCorp's 2017 Integrated Resource Plan (IRP) with the Public Service Commission of Utah (Commission). The Commission issued a Scheduling Order on April 25, 2017 setting a schedule for comments on the IRP filing, with initial comments due October 24, 2017. On August 2, 2017, the Company filed updated IRP economic analyses exclusively for the repowered wind, new Wyoming wind and new Wyoming transmission projects which it entitled the Energy Vision 2020 Update. According to the Commission's schedule for comments, the Utah Office of Consumer Services (Office) submits these initial comments on PacifiCorp's 2017 IRP.

### **II. Recommendation Concerning Acknowledgement**

The Office recommends that the Commission not acknowledge PacifiCorp's 2017 IRP because of modeling deficiencies that may have biased the selection of the final preferred portfolio resources to include the Company's pre-selected resources. The IRP development process did not allow time for adequate stakeholder input to evaluate these deficiencies and potential biases.

The 2017 IRP development process violated a key requirement of the Commission's IRP Standards and Guidelines – the requirement for the Company to provide ample opportunity for public input and information exchange during the development of the IRP. The Company failed to meet this requirement because it provided essentially no opportunity for public input and information exchange regarding the primary resource decisions it made in the 2017 IRP process – the Company's decision to pursue its Energy Vision 2020 projects

(999 MW of repowered wind, 1,180 MW of new wind and 140 miles of new 500 kV transmission).

### III. Utah's Standards and Guidelines for Integrated Resource Planning for PacifiCorp

Standard and Guideline Number 3 states:<sup>1</sup>

*IRP will be developed in consultation with the Commission, its staff, the Division of Public Utilities, the Committee of Consumer Services, appropriate Utah state agencies and interested parties. **PacifiCorp will provide ample opportunity for public input and information exchange during the development of its Plan.*** (emphasis added)

The Company announced its decision to pursue wind repowering in the last public IRP meeting on March 2 & 3, 2017, less than one month before the IRP was due to be filed with state commissions on March 30. This was the first time that IRP stakeholders heard of the wind repower project and this timing allowed for minimal information exchange and no opportunity for public input on the repowering proposal during the IRP development process. The Company's plans to include over 1,000 MW of new Wyoming wind and a new Wyoming transmission line were not made known to stakeholders until the Company filed its 2017 IRP with the Commission on April 4, 2017. Therefore, there was no opportunity for public input and information exchange on these projects during the IRP development process. Utah's IRP Standards and Guidelines are meant to prevent this type of end result from occurring in the IRP process.

### IV. The 2017 IRP Public Process

Stakeholders and Company personnel invested large amounts of time and effort in the 2017 IRP development process. Stakeholders from over 40 organizations participated in the 2017 IRP public input process.<sup>2</sup> PacifiCorp also received 19 sets of written comments on the development of the IRP prior to the filing of the 2017 IRP.<sup>3</sup> It is clear that parties were willing to actively evaluate and question the information that the Company did provide to stakeholders.

Importantly, a large number of meetings were held to allow for public input and information exchange:

#### 7 Public Input Meetings

- Initiated on June 21, 2016 with a final meeting on March 3, 2017
- 5 of the 6 in-person meetings were scheduled as two-day sessions
- 1 meeting held via phone conference

#### 5 State-Specific Meetings held during June 2016

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<sup>1</sup> Docket No. 90-2035-01, Report and Order on Standards and Guidelines, June 18, 1992, page 36.

<sup>2</sup> See Appendix C of PacifiCorp's 2017 IRP.

<sup>3</sup> See "2017 IRP Received Comments" at <http://www.pacificorp.com/es/irp/irpcomments.html>

Despite the numerous meetings and substantial participation by stakeholders, the Company failed to inform and allow parties time to vet the development of the Company's proposed Energy Vision 2020 projects during the 2017 IRP development process. However, information provided by the Company shows that while the 2017 IRP public process was ongoing, the Company was privately evaluating and initiating a process to develop projects that could capture wind production tax credit (PTC) benefits, projects that eventually morphed into the Energy Vision 2020 projects. In fact, as described below, the Company was privately taking steps toward these projects during the early stages of the 2017 IRP process.

#### **V. Information from PacifiCorp's Corporate Decisions Was Withheld from the IRP Public Process**

In Docket No. 17-035-40, Rocky Mountain Power's Request for Approval of Resource Decisions for new wind and new transmission, the Company stated: "The Company obtained wind turbine costs from a competitive procurement process that was held in 2016 to procure the Company's "safe harbor" wind turbine generator equipment."<sup>4</sup>

The Company's response to a Division of Public Utilities (Division or DPU) data request in this docket sheds more light on when the Company began preparing for what eventually became the Energy Vision 2020 projects:

#### **DPU Data Request 5.8**

Wind repowering. Please state the earliest date that the Company was made aware of the opportunity to repower wind turbines. Also, please state if the repowering projects were in the Company's 2016 ten-year Business Plan.

#### **Response to DPU Data Request 5.8**

The Internal Revenue Service (IRS) issued guidance clarifying the requirements for repowered wind projects to re-qualify for available production tax credits (PTC) on May 5, 2016. Later **in May 2016**, PacifiCorp was approached by General Electric International, Inc. (GE), regarding the potential to repower PacifiCorp's GE fleet of wind turbines. PacifiCorp subsequently worked with GE to assess the feasibility of repowering and finally determined that repowering was a viable opportunity after GE completed a technical feasibility analysis of repowering an existing wind project on **November 1, 2016**. A limited repowering effort focused on repowering approximately 100 megawatts (MW) of an existing wind project was subsequently included in the Company's Fall 2016 10-year Business Plan. (emphasis added)

On January 13 & 26, 2017, the Company filed Notices of Non-Competitive Procurement indicating that it had entered into contracts with GE and Vestas totaling over \$78 million for

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<sup>4</sup> 17-035-40, Direct Testimony of Chad A. Teply, June 30, 2017, page 13, lines 255 - 257.

equipment and services to “retrofit several of PacifiCorp’s wind energy projects”.<sup>5</sup> These notices were filed in Docket No. 17-999-01, Miscellaneous Correspondence and Reports Regarding Electric Utility Services, and very likely not noticed by most stakeholders involved in the 2017 IRP development process. These notices indicate that these contracts, now known to be the safe harbor purchases, were signed on December 2, 2016 and December 29, 2016. The Company has stated that this safe harbor equipment can be used for both the repowered wind projects and for the new wind projects.<sup>6</sup> The IRS safe harbor provision requires a 5% purchase which would indicate that the Company’s expenditure of \$78 million on these contracts meant it was anticipating the completion of approximately \$1.6 billion of wind projects. It would appear that sometime in 2016, the Company had already pre-selected a large amount of wind resources for inclusion in the 2017 IRP.

In December 2015, Congress extended the wind PTCs at full value through 2020. The opportunity to capture PTC benefits was known well before the 2017 IRP development process started and it is apparent that the Company was making progress toward the Energy Vision 2020 projects while the 2017 IRP development process was ongoing. However, the Company did not provide any opportunity for public input or information exchange regarding these projects during the IRP process as required by the Commission’s IRP Standards and Guidelines. Had parties been aware of the direction the Company was heading in its final preferred portfolio selection, stakeholders could have provided input to expand and improve the modeling for tax credit driven economic projects – which is a different approach than the typical need-based IRP planning process.

#### **VI. The Lack of Information Exchange During the IRP Development Process Did Not Allow for the Proper Evaluation of the Energy Vision 2020 Projects or Other Potential Tax Credit Eligible Projects**

In Docket Nos. 17-035-23, 17-035-39 and 17-035-40, the Office is evaluating the Company’s economic analysis of the wind repower and new wind projects from the IRP. The direct testimonies of Office witness Philip Hayet in Docket Nos. 17-035-23 and 17-035-39 raised many issues that could have been explored during the IRP process. For example, the Office has raised the following issues regarding the Company’s analysis:<sup>7</sup>

- What are the impacts on PVRR benefits, particularly considering the PTC benefits, if Congress lowers the federal corporate income tax?
- When evaluated on a project by project basis, some wind farms appear to be uneconomic when repowered and should not be included in the repowered portfolio (i.e. total benefits to ratepayers would be higher without these projects).
- The Company’s modeling methods and assumptions that extend its economic evaluation from 20 years to 30 years (ending in 2050) are questionable and not

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<sup>5</sup> See <https://pscdocs.utah.gov/misc/17docs/1799901/291219RMPNotNonCompProcureGE1-13-2017.pdf> & <https://pscdocs.utah.gov/misc/17docs/1799901/291354RMPNotNonCompProcVestas1-26-2017.pdf>

<sup>6</sup> PacifiCorp response to OCS 1-55 in the 17-035-40 Docket and Company statements in technical conferences.

<sup>7</sup> 17-035-39, Direct Testimony of Philip Hayet, September 20, 2017 and 17-035-23, Direct Testimony of Philip Hayet, September 13, 2017.

realistic. The Company's approach to extend results from 20 to 30 years should be reevaluated.

- Do the repowered wind's projected benefits remain if evaluated after the new wind/new transmission are assumed to be in place? In other words, a project's place in the "queue" affects its economic value and it may not make sense to do both the wind repower project and the new wind/new transmission project.
- The Company updated its assumptions for wind using data from recent competitive procurements but did not do the same for other resources such as solar.<sup>8</sup>
- The Company did not sufficiently evaluate other potential tax credit eligible projects in other locations such as solar in Utah in the same manner that they evaluated wind in Wyoming.

Regarding the first bullet above, the Office submitted discovery in the 17-035-39 proceeding:

### **OCS Data Request 7.1**

Refer to the Direct Testimony of Rick Link, Table 2. Please provide a revised version of this table and supply all work papers electronically used to develop the results, based on replacing the 35% federal income tax rate assumed in the calculations with a federal income tax rate of:

- (a) 15%;
- (b) 20%; and
- (c) 25%.

### **Response to OCS Data Request 7.1**

PacifiCorp has not performed the requested analysis.

The magnitude of the PTC benefit is directly impacted by the Company's federal corporate income tax rate. The current administration in Washington and the current Congress have announced their intentions to pass tax reform legislation with lowering the corporate tax rate as one of their priorities.<sup>9</sup> The GOP released a "blue print" for tax reform in June 2016.<sup>10</sup> The analysis requested by the Office in OCS 7.1 above is the type of information exchange that the 2017 IRP development process should have allowed time for, as well as time to examine other types of issues like those raised by the Office above. Because the Company did not reveal their Energy Vision 2020 projects nor even their general plan to somehow capture benefits of wind PTCs until the end of the IRP development process, the necessary

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<sup>8</sup> 17-035-40, Direct Testimony of Chad A. Teply, June 30, 2017, page 13, lines 255 – 257.

<sup>9</sup> See "GOP tax plan could cause headaches for clean energy finance, but details scarce", SNL Exclusive, S&P Global Market Intelligence, September 29, 2017.

<sup>10</sup> See [https://abetterway.speaker.gov/\\_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf](https://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf)

information exchange to answer the issues listed above could not happen<sup>11</sup>. This leads the Office to believe that the Company's IRP modeling is deficient and may contain biases.

## **VII. The Commission Has Provided Clear Guidance on the Requirement for the Company to Provide Information Exchange During the IRP Development Process**

Below are excerpts from previous Commission IRP Orders instructing the Company to provide the necessary analyses and explain its corporate decisions so that the Company and stakeholders can have an informed debate during the IRP process:

*Therefore, we instruct the Company to ensure the IRP explicitly produces the quantitative analysis necessary for regulators to understand the cost consequences of mitigating any risk or uncertain event including any Company corporate resource planning decisions. The Company bears the risk for any unreasonable costs to ratepayers associated with its decisions to change the quantity and type of resources it procures based on asserted but unexamined risks.<sup>12</sup>*

*Indeed, parties are able to debate the Company's conclusions and, using the information generated in the IRP analytical process, offer informed views....This healthy discussion of key issues of expected costs, risks, and reliability is precisely one value intended in the IRP process.<sup>13</sup>*

*As stated earlier in our guidance regarding the link between the IRP and the Company's business plan, the Company must fully support all of the assumptions used in the IRP and demonstrate their appropriateness for serving the public interest, including the use of any business planning assumptions. Further, the alignment process must not compromise the IRP process. The IRP process and schedule must be maintained and allow adequate time for public input and review.<sup>14</sup>*

As discussed above, the Company was planning and executing wind equipment purchases outside of the IRP process in early 2016. As the Commission has stated, the Company's business planning process or corporate decisions must not compromise the IRP process. The Company should have allowed adequate time for public input and review of assumptions, risks and modeling related to the Energy Vision 2020 projects during the IRP development process.

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<sup>11</sup> In its rebuttal testimony in the 17-035-39 proceeding on the wind repower resource decision, the Company has finally performed some analyses evaluating changes in corporate income tax rates and repowering on a project by project basis. This testimony was filed on October 19, 2017 and stakeholders have not yet had time to evaluate the Company's latest eleventh-hour analyses.

<sup>12</sup> Docket No. 07-2035-01, Report and Order, February 6, 2008, page 34.

<sup>13</sup> Docket No. 09-2035-01, Report and Order, April 1, 2010, page 18.

<sup>14</sup> Docket No. 09-2035-01, Report and Order, April 1, 2010, page 58.

**VIII. Summary and Recommendation**

The Office believes that the 2017 IRP incorporated modeling deficiencies that may have biased the selection of the final preferred portfolio resources to include the Company's pre-selected wind resources. The Company's Energy Vision 2020 projects are currently being evaluated in the ongoing resource decision proceedings in Docket Nos. 17-035-39 and 17-035-40. In these proceedings, a substantial amount of information exchange is finally occurring to determine if the risks and benefits to ratepayers make these projects worth pursuing. The problem is that substantial information exchange and public input concerning these projects and alternative projects should have occurred during the 2017 IRP development process. Utah IRP Standard and Guideline Number 3 requires this to happen: "PacifiCorp will provide ample opportunity for public input and information exchange during the development of its Plan".

As discussed above, PacifiCorp privately initiated its investigation into wind repowering in May 2016 and then planned and made its PTC safe harbor purchases for wind projects while the 2017 IRP development process was still in its early stages. The Company could have solicited public input for their plans involving the safe harbor purchases during the IRP Public Input Process considering that IRP meetings began in June 2016 and concluded in March 2017. Because the Company chose not to, PacifiCorp's 2017 IRP Process does not comply with the Commission's IRP Standards and Guidelines. Even if these projects are eventually found to be prudent and in the public interest in their respective resource decision dockets, the Office nonetheless recommends that the Commission not acknowledge PacifiCorp's 2017 IRP because the 2017 IRP process and modeling are flawed and inconsistent with this Commission's guidelines.

CC: Chris Parker, Division of Public Utilities  
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Distribution List