

–BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH–

IN THE MATTER OF PACIFICORP’S)	
APPLICATION FOR APPROVAL OF)	
ALTERNATIVE COST RECOVERY FOR MAJOR)	DOCKET No. 21-035-42
PLAN ADDITIONS OF THE PRYOR MOUNTAIN)	Exhibit No. DPU 1.0 SR
AND TB FLATS WIND PROJECTS)	Direct Testimony of Dr. Joni S. Zenger

REDACTED

FOR THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH

Surrebuttal Testimony of

Dr. Joni S. Zenger

November 18, 2021

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1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

3 A. My name is Dr. Joni S. Zenger. I am a Technical Consultant for the Utah Division of
4 Public Utilities (Division). My business address is 160 East 300 South, Salt Lake City,
5 Utah 84111.

6 **Q. ARE YOU THE SAME DR. JONI S. ZENGER WHO PREVIOUSLY FILED**
7 **DIRECT TESTIMONY ON BEHALF OF THE DIVISION IN THIS**
8 **PROCEEDING?**

9 A. Yes.

10 **Q. DO YOU HAVE ANY CORRECTIONS TO YOUR DIRECT TESTIMONY THAT**
11 **YOU WOULD LIKE TO MAKE AT THIS TIME?**

12 A. Yes. In my Direct Testimony at line 481, I referenced DPU DR #14. This should have
13 been DPU DR #13. Second, at line 400, I stated that Mr. Van Engelenhoven's testimony
14 reported 110 wind turbine generators (WTGs). This was an error that the Company
15 pointed out in its Rebuttal Testimony.¹ The total number of WTGs reported by Mr. Van
16 Engelenhoven is 114. I totaled the Vestas turbines, which do sum to 110. In this instance
17 I did not include the four General Electric (GE) turbines, which, with the 110 Vestas
18 model V110 WTGs, total 114. This is consistent in the Company's Application and lines
19 24-25 of Mr. Van Engelenhoven's Testimony, and I did report a total of 114 WTGs for
20 Pryor Mountain in four other places in my testimony.² Lines 397 through 401 should be
21 stricken from my Direct Testimony.

¹ Confidential Rebuttal Testimony of Mr. Robert Van Engelenhoven, October 28, 2021, p. 2, lines 34-37.

² See p. 11, 240; p. 12, line 240; p. 12, lines 247 and 250; p. 19, line 406; Confidential Direct Testimony of Dr. Joni S. Zenger, October 6, 2021.

22 **Q. DO THESE CORRECTIONS CHANGE ANY ASPECTS OF YOUR ANALYSIS**
23 **OF PRYOR MOUNTAIN?**

24 A. No. This did not affect any other aspect of my analysis of Pryor Mountain.

25 **II. PURPOSE AND WITNESSES**

26 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

27 A. My surrebuttal testimony re-states the Division’s initial and final position in this case that
28 the Public Service Commission of Utah (Commission) should dismiss the Company’s
29 Application in full, as it does not meet the requirements of the Major Plant Addition
30 (MPA) statute. My surrebuttal also presents the Division’s updated findings on project
31 costs for the Pryor Mountain and TB Flats wind projects (together Projects).
32 Specifically, I will respond to the Rebuttal Testimony of PacifiCorp’s (the Company’s)
33 witnesses Ms. Joelle Steward and Mr. Robert Van Engelenhoven pertaining to Pryor
34 Mountain. Mr. Trevor Jones will provide his findings on TB Flats.

35 At the time the Division provided Direct Testimony, it did not have complete information
36 and requested that the Company provide certain information in its rebuttal testimony and
37 in responses to the Division’s data requests. The Division has reviewed that information
38 and reports its findings in its surrebuttal testimonies of its witnesses, Dr. Artie Powell,
39 Mr. Trevor Jones, and Mr. Gary Smith.

40 **III. THE DIVISION’S POSITION**

41 **Q. HAS THE DIVISION’S OVERALL POSITION IN THIS CASE CHANGED**
42 **SINCE IT FILED ITS DIRECT TESTIMONY?**

43 A. No. The Division maintains its initial position that the Commission should dismiss the
44 Company’s Application in full because it does not satisfy the 1% capital addition

45 threshold required by Utah Code Ann. § 54-7-13.4.³ Dr. Artie Powell will re-state this
46 position in his Surrebuttal Testimony, as well as respond to Company rebuttal statements.

47 **Q. DO OTHER PARTIES SHARE THE DIVISION'S RECOMMENDATION FOR**
48 **THE COMMISSION TO DENY PACIFICORP'S APPLICATION?**

49 A. Yes. Both the Office of Consumer Services⁴ (OCS) and the Utah Association of Energy
50 Users (UAE) recommend the Commission reject the Company's Application because it
51 does not meet the criteria for approval of a MPA under Utah Code § 54-7-13.4.⁵ All
52 intervenors have come to this same conclusion.⁶ Therefore, the Commission should
53 reject the Company's Application to recover the additional costs associated with TB Flats
54 and Pryor Mountain wind projects, respectively.

55 **Q. WHAT OTHER FILINGS HAVE BEEN MADE SINCE THE OCTOBER 6, 2021,**
56 **DIRECT TESTIMONY DATE?**

57 A, On October 27, 2021, the Division, the OCS, and the UAE, (together, Movants) filed a
58 joint Confidential Motion for Summary Judgment seeking an order from the Commission
59 denying the Company's Application as a matter of law and dismissing the Application
60 with prejudice. The Movants are the only intervenors in this docket and appear to be
61 unanimous with respect to the fact that the criteria for approval of a MPA have not been
62 met.

63 On November 10, 2021, the Company filed its Opposition to Confidential Motion for
64 Summary Judgment with the Commission.

³ Confidential Direct Testimony of William A. Powell, PhD, October 6, 2021, p. 2, lines 35-47.

⁴ Confidential Direct Testimony of Michelle Beck, October 6, 2021, pp. 2-3, lines 57-60.

⁵ Confidential Direct Testimony of Kevin C. Higgins, October 6, 2021, p. 3, lines 47-59.

⁶ Confidential Direct Testimony of Michelle Beck, October 6, 2021, pp. 3-4, lines 209-211; and Confidential Direct Testimony of Kevin C. Higgins, October 6, 2021, p. 10, lines 209-211.

65 **Q. DID THE DIVISION CONTINUE TO INVESTIGATE MATTERS IN THIS**
66 **CASE? IF SO, WHAT ARE THE DIVISION’S OTHER RECOMMENDATIONS?**

67 A. Yes. The Division, nevertheless, continued to review project costs for TB Flats and
68 Pryor Mountain. Should the Commission find that the Application does satisfy the
69 requirements in the MPA statute, it should limit the additional recovery of pandemic-
70 related, delayed plant for Pryor Mountain to a total of [REDACTED], and for TB Flats
71 approve costs in the amount of [REDACTED]. These are the amounts that the Division
72 has determined were prudently incurred. Mr. Trevor Jones has analyzed and reviewed
73 discovery for TB Flats and will recommend that [REDACTED] for project costs
74 associated with TB Flats, which is slightly lower than the [REDACTED] requested by the
75 Company, should be approved by this Commission.

76 **Q. DID THE DIVISION CHANGE ITS POSITION RELATED TO SYSTEM NET**
77 **POWER COSTS (NPC)?**

78 A. No. The Division’s witness, Mr. Gary Smith, provides surrebuttal testimony that
79 reaffirms his initial recommendation--granting the Company’s proposed request to
80 change base Energy Balancing Account (EBA) rates in isolation, without consideration of
81 actual results and given the current accuracy of the existing base EBA, may result in a
82 less accurate base EBA. Mr. Smith will rebut statements made by the Company’s
83 witness, Mr. Steven R. McDougal.

84 **IV. PRYOR MOUNTAIN COSTS**

85 **Q. HAS THE COMPANY CLARIFIED WHAT THE PRYOR MOUNTAIN**
86 **PROJECT COSTS ARE?**

87 A. Yes. Mr. Robert Van Engelenhoven states in his Rebuttal Testimony: “The Company
88 currently projects total costs for the Pryor Mountain wind project to be approximately

89 [REDACTED]...”⁷ He further states: “At this time, the Company has booked
90 approximately [REDACTED] of the total forecasted projects costs of [REDACTED].”⁸

91 In addition, the Company’s witness, Mr. Steven R. McDougal, writes in his Rebuttal
92 Testimony, the following clarification:

93 The Company’s current request in this proceeding for the Pryor
94 Mountain wind project is [REDACTED]
95 than what was presented in the Company’s rebuttal in the 2020
96 GRC.⁹

97 **Q. DOES THE [REDACTED] REPRESENT THE FINAL PROJECT COSTS FOR**
98 **PRYOR MOUNTAIN?**

99 A. No. As I stated in my Direct Testimony, the Company is still negotiating settlement costs
100 with the Balance of Plant (BOP) contractor and the wind turbine generator (WTG)
101 supplier stemming from project delays caused by the COVID-19 pandemic.¹⁰ The
102 Company has indicated that liquidated damages may be owed¹¹ and anticipates these
103 settlements will be completed by the end of 2021.¹²

104 The Company has further explained that, although Pryor Mountain was placed in
105 commercial operation on April 1, 2021,¹³ completion activities continue to be required
106 after commissioning. These activities include site demobilization and restoration, permit
107 close-out activities, road repairs, revegetation, completion of punch list items, and permit
108 close-out activities that typically take about nine to 12 months after commissioning to
109 complete.¹⁴ Therefore, the total final Pryor Mountain project costs are currently
110 unknown. The Company has stated that any cost increases above the projected [REDACTED]

⁷Confidential Rebuttal Testimony of Mr. Robert Van Engelenhoven, October 28, 2021, p. 2, lines 30-31.

⁸ Id., p. 3, lines 49-50.

⁹ Confidential Rebuttal Testimony of Steven R. McDougal, October 28, 2021, p. 6, lines 107-109.

¹⁰ Confidential Direct Testimony of Dr. Joni S. Zenger, October 6, 2021, p. 20, lines 422-423.

¹¹ Confidential Rebuttal Testimony of Mr. Robert Van Engelenhoven, October 28, 2021, p. 3, 61-63.

¹² Id., p. 3, lines 52-55.

¹³ Errata to Application for Alternative Cost Recovery, August 26, 2021, p. 2, ¶ 4.

¹⁴ Id., pp. 3-4, lines 56-65.

111 [REDACTED] presented in this proceeding will be included in a future ratemaking proceeding
112 and subject to review by parties.¹⁵

113 In discovery, the Company states that there remains a balance of [REDACTED] of the
114 [REDACTED] in the form of contingency funds.¹⁶ This amount could be used to settle
115 negotiated contractor costs or put toward other completion activities. If any of this
116 amount is not used, it should be refunded to ratepayers.

117 **V. PRYOR MOUNTAIN WIND TURBINE COMPONENTS**

118 **Q. WHAT IS YOUR CONCERN, AS YOU DESCRIBED IT IN YOUR DIRECT**
119 **TESTIMONY, REGARDING THE PURCHASE, SALE, AND SUBSTITUTION**
120 **OF VARIOUS WIND TURBINE COMPONENTS AS IT PERTAINS TO PRYOR**
121 **MOUNTAIN?**

122 A. My concern as I read about these changes is focused on ensuring that costs were not
123 unfairly assigned to the Pryor Mountain project and that Utah ratepayers are not paying
124 transportation, storage, or maintenance fees for equipment that was purchased in 2016
125 and is now either undervalued or not being used five years later. I was aware that the
126 Company made a large purchase of wind turbine components from its affiliate Berkshire
127 Hathaway Energy (BHE) in 2016 to ensure that the Company had secured safe harbor
128 equipment, eligible to receive 100% of the production tax credits (PTCs) for several of
129 the Company's Energy Vision 2020 projects, as well as the Pryor Mountain wind
130 project.¹⁷ The Division recently became aware that the Company is now selling wind
131 turbine equipment to its affiliate, BHE Wind, LLC (BHE Wind).¹⁸

¹⁵ Confidential Rebuttal Testimony of Joelle R. Steward, October 28, 2021, p. 10, lines 190-192.

¹⁶ Company's Response to DPU data response #2.2 and #2.2 (a), October 20, 2021.

¹⁷ Docket No. 20-035-04, PacifiCorp's 2020 General Rate Case.

¹⁸ Docket No. 21-999-01, Confidential PacifiCorp's Notice of Affiliate Transaction with BHE Wind, LLC, September 8, 2021.

132 Q. THE COMPANY STATES THAT YOU MISCHARACTERIZED THE
133 COMPANY'S AFFILIATE TRANSACTION FILINGS AND MADE INCORRECT
134 STATEMENTS.¹⁹ WILL YOU EXPLAIN?

135 A. In my Direct Testimony and in discovery I describe [REDACTED]
136 [REDACTED]²⁰ I assumed the September 8,
137 2021, Confidential Notice of Affiliate Transaction was a [REDACTED]
138 [REDACTED] As I learned
139 from the Company's rebuttal and discovery responses, that assumption was incorrect.
140 [REDACTED]
141 [REDACTED]
142 [REDACTED].²¹

143 Ms. Steward's Rebuttal Testimony²² refers to the following statement in my Direct
144 Testimony that is inaccurate:²³

145 [REDACTED]
146 [REDACTED]
147 [REDACTED]

148 To be clear, [REDACTED]
149 [REDACTED] This was an inaccurate
150 characterization on my part. A lot of my questions in discovery and my statement above
151 points to the fact that the Company has access to information and understands perfectly
152 what was purchased, sold, substituted, etc. As someone who is not familiar or does not
153 have internal knowledge of this same information, I was asking data responses and asking

¹⁹ Confidential Rebuttal Testimony of Joelle R. Steward, October 28, 2021, pp. 8-9, lines 162-171 and Confidential Rebuttal Testimony of Robert Van Engelenhoven, October 28, 2021, p. 4, lines 73-83.

²⁰ Confidential Direct Testimony of Dr. Joni S. Zenger, October 6, 2021, p. 21, lines 458-460; DPU data request Set #13 to RMP, October 7, 2021.

²¹ Company's Confidential Response to DPU data request #13.1, October 19, 2021.

²² Confidential Rebuttal Testimony of Joelle R. Steward, October 28, 2021, pp. 8-9, lines 162-171.

²³ Confidential Direct Testimony of Dr. Joni S. Zenger, October 6, 2021, p. 21, lines 458-460.

154 the Company for clarification on these issues. The Company explained that the
155 [REDACTED]
156 [REDACTED]
157 [REDACTED]²⁴ Without
158 asking, it was not obvious that the two transactions involved different equipment
159 manufacturers and/or different wind turbine component parts.

160 The Company corrected my assumptions in the Division’s data request Set #13. To be
161 perfectly clear, the Company responds as follows:

162 [REDACTED]
163 [REDACTED]
164 [REDACTED]
165 [REDACTED]
166 [REDACTED]
167 [REDACTED]
168 [REDACTED]
169 [REDACTED]²⁵

170 The Company assuaged my overall concern in this matter, as Mr. Van Engelenhoven
171 confirmed that the cost of the [REDACTED]
172 [REDACTED].²⁶ The Company further states that there are no costs associated with
173 turbines at the Pryor Mountain project that are not related to the turbines ultimately
174 installed at the project.²⁷

175 **Q. MS. STEWARD AND MR. VAN ENGELENHOVEN RAISE FURTHER**
176 **CONCERNS WITH YOUR CHARACTERIZATION OF THE BHE AFFILIATE**
177 **TRANSACTIONS.²⁸ WILL YOU PLEASE EXPLAIN?**

²⁴ Company’s Confidential Response to DPU data request #13.10, October 19, 2021.
²⁵ Company’s Confidential Response to DPU data requests #13.1-13.15, October 19, 2021.
²⁶ Confidential Rebuttal Testimony of Robert Van Engelenhoven, October 28, 2021, p. 9, lines 174-175.
²⁷ Id., lines 179-181.
²⁸ Confidential Rebuttal Testimony of Joelle R. Steward, October 28, 2021, pp. 8-9, lines 162-171 and Confidential Rebuttal Testimony of Robert Van Engelenhoven, October 28, 2021, p. 4, lines 66-83.

178 A. This rebuttal arises from the same line of investigation regarding the sale, substitution,
179 and transfer of wind turbine components. In this instance, I determined that the [REDACTED]
180 [REDACTED]
181 [REDACTED]²⁹ The
182 Company explains that I further mischaracterized the BHE affiliate transaction. [REDACTED]
183 [REDACTED]
184 [REDACTED]
185 [REDACTED]
186 [REDACTED]
187 [REDACTED]

188 [REDACTED]
189 [REDACTED]
190 [REDACTED]
191 [REDACTED]
192 [REDACTED]
193 [REDACTED]
194 [REDACTED]
195 [REDACTED]
196 [REDACTED]
197 [REDACTED]
198 [REDACTED]
199 [REDACTED]
200 [REDACTED]
201 [REDACTED]³¹

202 The discovery referenced above by Mr. Van Engelenhoven is in response to the
203 Division's data requests #3.1 and #13.16, respectively. The relevant portion is copied
204 below:

205 [REDACTED]
206 [REDACTED]
207 [REDACTED]

²⁹ Confidential Direct Testimony of Dr. Joni S. Zenger, October 6, 2021, p. 21, lines 444-448.
³⁰ Confidential Rebuttal Testimony of Robert Van Engelenhoven, October 28, 2021, p. 4, lines 73-75.
³¹Id., at lines 76-78.

208
209
210
211
212
213

[REDACTED]

214
215
216
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218

Again, this makes perfect sense to the Company who has control of the information. As a regulator I asked questions pertaining to associated costs, transportation and storage fees, transfer fees, and differences in valuation of the substituted parts. It did not make intuitive sense that the Company could reduce its 2016 purchase of equipment from BHE Wind four years later in 2020.

219
220
221
222
223
224

[REDACTED]

225
226
227
228
229
230
231
232

[REDACTED]

³² Company's Confidential Response to DPU data request #13.16, October 19, 2021.
³³ Company's Confidential Response to DPU data request #13.4, October 19, 2021.

233 **Q. HAS THE COMPANY ADEQUATELY ADDRESSED YOUR CONCERNS**
234 **REGARDING THE FIVE WIND TURBINE COMPONENTS?**

235 A. Yes. The Company confirmed that [REDACTED]
236 [REDACTED]
237 [REDACTED].³⁴ [REDACTED]
238 [REDACTED]
239 [REDACTED]
240 [REDACTED].³⁵ [REDACTED]
241 [REDACTED].³⁶ Ratepayers
242 only pay the costs for the equipment that was actually installed at the project.

243 **Q. IN YOUR DIRECT TESTIMONY YOU BROUGHT UP ONE OTHER CONCERN**
244 **WITH RESPECT TO ANOTHER PURCHASE OF WIND TURBINE**
245 **COMPONENTS. HAS THIS CONCERN BEEN RESOLVED?**

246 A. Yes. [REDACTED]
247 [REDACTED]
248 [REDACTED]
249 [REDACTED]
250 [REDACTED]
251 [REDACTED]
252 [REDACTED]
253 [REDACTED]
254 [REDACTED]

³⁴ Confidential Rebuttal Testimony of Robert Van Engelenhoven, October 28, 2021, p. 4, lines 81-83.

³⁵ Id., at p. 7, lines 128-130.

³⁶ Id., at p. 6, lines 106-108.

³⁷ Confidential Direct Testimony of Dr. Joni S. Zenger, October 6, 2021, pp. 23-24, lines 504-508.

³⁸ Confidential Rebuttal Testimony of Robert Van Engelenhoven, October 28, 2021, p. 7, lines 134-136.

³⁹ Id., at pp. 7-8, lines 142-145.

⁴⁰ Id., at p. 8, lines 152-153.

255 **Q. HAS THE COMPANY ADEQUATELY ADDRESSED YOUR CONCERNS WITH**
256 **WIND TURBINE COMPONENTS RELATED TO PROJECTS COSTS FOR**
257 **PRYOR MOUNTAIN?**

258 A. Yes. There appear to be no costs associated with turbines at the Pryor Mountain project
259 that are not related to the turbines ultimately installed at Pryor Mountain.

260 **Q. WILL YOU PLEASE SUMMARIZE YOUR ANALYSIS OF PROJECT COSTS**
261 **FOR PRYOR MOUNTAIN?**

262 A. The Division evaluated the costs for delayed plant caused by the COVID-19 pandemic
263 for Pryor Mountain that were filed in this case. The Division also investigated the
264 purchase, substitution, and affiliate transactions related to Pryor Mountain. The Division
265 ascertains that no additional project costs were ascribed to Pryor Mountain because of the
266 Company's supply changes to various wind turbine components. The Division finds that
267 the Company's decisions with respect to wind turbine components were prudent and had
268 no adverse impact on costs for the Pryor Mountain project. The projected amount of
269 ██████████ for Pryor Mountain is reasonable, given the project was constructed amid
270 the pandemic. Once final project costs are known, the Company can file a request for the
271 remaining costs for completion and related activities in a ratemaking proceeding.

272 **Q. WHAT DO YOU RECOMMEND TO THE COMMISSION WITH RESPECT TO**
273 **PROJECT COSTS FOR PRYOR MOUNTAIN?**

274 A. If the Commission approves the Company's Application, the Division recommends
275 approving ██████████ for project costs for Pryor Mountain.

276 **VI. CONCLUSION AND RECOMMENDATIONS**

277 **Q. WILL YOU PLEASE SUMMARIZE THE DIVISION'S FINAL FINDINGS AND**
278 **RECOMMENDATIONS TO THE COMMISSION IN THIS CASE?**

279 A. Alternative Cost Recovery as a Major Plant Addition.

280 In this docket, the Division evaluated the statutory requirements in Utah Code Ann. § 54-
281 7-13.4 for alternative cost recovery of major plant additions.⁴¹ Dr. Powell's initial and
282 final analysis shows the Company's Application fails to meet the necessary one percent
283 threshold found in the statute. The statute was intended to allow for recovery of
284 legitimate additional investment by the Company that was not considered or approved in
285 a subject rate case.⁴² Therefore, the Division recommends that the Commission deny the
286 Company's alternative cost recovery request. If the Commission adopts this
287 recommendation, the Division further recommends that the benefits arising from these
288 plants continue to be treated on an average-of-period basis consistent with the
289 Commission's order from the 2020 rate case.

290 TB Flats and Pryor Mountain.

291 For the reasons stated above, the Division recommends the Commission deny the
292 Company's Application in whole. What follows are alternative recommendations in the
293 event the application is not denied. The Division recommends that project costs in the
294 amount of [REDACTED] should be approved for Pryor Mountain, and the Division's
295 witness Mr. Jones recommends approving [REDACTED] in pandemic-related costs for
296 TB Flats. When final project costs are known, the Company can request cost recovery
297 for them in a future rate case proceeding.

298 Net Power Costs and EBA.

299 The Division recommends the Commission find that it is not in the public interest to
300 modify the current NPCs and PTC base costs.

301 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

302 A. Yes.

⁴¹ Confidential Direct Testimony of William A. Powell, PhD, October 6, 2021, p. 2, lines 35-47.

⁴² Id., at p. 8, lines 168-170.