
Application of Rocky Mountain Power for
Approval of an Extension to the 2020
Inter-Jurisdictional Cost Allocation
Agreement

DOCKET NO. 23-035-20
ORDER APPROVING EXTENSION OF THE
2020 PROTOCOL

ISSUED: July 27, 2023

I. PROCEDURAL HISTORY

On April 12, 2023, Rocky Mountain Power (RMP) filed an application (“Application”) for approval of an extension to PacifiCorp's 2020 inter-jurisdictional cost allocation agreement (the “2020 Protocol”) with the Public Service Commission (PSC). Specifically, RMP asks the PSC to approve the First Amendment and Extension to the 2020 Protocol (“First Amendment”), which RMP attached to its Application.¹

The 2020 Protocol addresses interjurisdictional cost allocation among PacifiCorp's customers within the six jurisdictions PacifiCorp serves.² PacifiCorp and more than 20 stakeholders executed the 2020 Protocol in November 2019. Among the signatories were government agencies, customer associations, conservation groups, and individual large customers (collectively, “Parties”).³ The 2020 Protocol terminates,

¹ Application at Attachment A.

² The 2020 Protocol is described in more detail in Attachment B to the Application.

³ The signatories to the 2020 Protocol include PacifiCorp, Alliance of Western Energy Consumers, The Healthy Environment Alliance of Utah, Idaho Conservation League, Idaho Public Utilities Commission Staff, Idaho Irrigation Pumpers Association, Interwest Energy Alliance, Monsanto Company, Oregon Citizens' Utility Board, Oregon Public Utility Commission Staff, PacifiCorp Idaho Industrial Consumers, Packaging Corporation of America, Powder River Basin Resource Council, Sierra Club, Utah Association of Energy Users, Utah Clean Energy, Utah Division of Public Utilities, Utah Office of Consumer Services, Washington Utilities & Transportation Commission Staff, Western Resource Advocates, Wolverine Fuels, Wyoming Industrial Energy Consumers, Wyoming Office of Consumer Advocate, and the Wyoming Public Service Commission Staff.

by its terms, on December 31, 2023. The First Amendment would extend the term through December 31, 2025.

On April 13, 2023, the PSC issued a Notice of Filing and Comment Period, and on May 11 and May 12, 2023, DPU and OCS, respectively, filed comments in support of the Application. No party filed reply comments.

II. BACKGROUND

For more than 30 years, state regulators, stakeholders, and PacifiCorp have worked to develop allocation methods that fairly and accurately allocate costs among the six jurisdictions PacifiCorp serves.⁴ In 2015, various parties stipulated to the use of the “2017 Protocol” as an interim measure, which expired on its own terms on December 31, 2018⁵ and was later extended by PSC Order until December 31, 2019.⁶ In addition to the lack of a long-term consensus, the rationale behind the interim approach was to allow parties more time to fully understand how emerging policies may ultimately impact interjurisdictional allocation of costs and revenues.⁷ With

⁴ A detailed background and history of the events leading to the 2020 Protocol is presented in the Application and in the PSC’s June 23, 2016 Order in Docket No. 15-035-86, *In the Matter of the Application of Rocky Mountain Power for Approval of the 2017 Protocol* [hereafter the “2017 Protocol Docket”].

⁵ A copy of the 2017 Protocol may be referenced in the 2017 Protocol Docket, submitted as Ex. A to the Direct Test. of J. Larsen filed on Dec. 31, 2015. The 2017 Protocol provided that it may be extended one additional year, through December 31, 2019, conditioned on approval by all state commissions that initially approved it no later than March 31, 2017.

⁶ See *Application of Rocky Mountain Power to Extend the 2017 Protocol through December 31, 2019*, Docket No. 17-035-06 (Order issued March 23, 2017).

⁷ 2017 Protocol at 1.

respect to Utah, the 2017 Protocol essentially employed the “Rolled-In Method,” which the PSC had previously approved with an “Equalization Adjustment” of \$4.4 million.⁸

On April 15, 2020, the PSC approved the 2020 Protocol.⁹ Intended to be a time-limited cost allocation method, the 2020 Protocol superseded the 2017 Protocol for California, Idaho, Oregon, Utah, Wyoming, as well as the West Control Area Inter-Jurisdictional Allocation Methodology for Washington, using both allocation methodologies with modifications during an interim period (“Interim Period”).¹⁰ Modifications to the 2017 Protocol during the 2020 Protocol’s Interim Period included: (1) elimination of the equalization adjustment; (2) changes to the embedded cost differential adjustments; (3) changes to treatment of qualifying facilities (QFs); and (4) changes to the general governance sections of the 2017 Protocol.

The Application indicates the Parties to the 2020 Protocol convened a workgroup to investigate framework issues (“Framework Issues Workgroup”) to develop the successor to the 2020 Protocol and over the Interim Period the Framework Issues Workgroup and PacifiCorp have engaged in confidential discussions every other month. The Application represents the Framework Issues Workgroup needs additional time to complete work on developing a successor to the 2020

⁸ *Id.* at 13.

⁹ *Application of RMP for Approval of the 2020 Inter-Jurisdictional Cost Allocation Agreement*, Docket No. 19-035-42, Order Approving 2020 Protocol issued April 15, 2020.

¹⁰ The Interim Period is defined as January 1, 2020, until the earlier of resolution of all remaining cost-allocation issues or December 31, 2023.

Protocol. To give the Parties this additional, necessary time, they have entered into the First Amendment to extend the 2020 Protocol to December 31, 2025.

III. PARTY COMMENTS

Generally, no opposition to the First Amendment exists. While Nucor did not execute the First Amendment, it has indicated it does not oppose the Extension. According to RMP, Wolverine Fuels has not responded to RMP's communications.¹¹

DPU and OCS Support the First Amendment.

DPU represents confidential discussions have progressed in good faith on a regular basis to establish a successor allocation protocol by the December 31, 2023 sunset date, but new federal agency actions, diverging state policies, and market considerations have resulted in the consideration of alternative resource allocation methods. DPU states parties require additional time to continue to explore these options and recommends the PSC approve the First Amendment. DPU states the Parties have agreed to (a) extend the 2020 Protocol through December 31, 2025; (b) amend the deadline for exit orders issued by the Oregon commission from December 31, 2023 to December 31, 2025 and update the target date for PacifiCorp's analysis and recommendation filing from June 30, 2024 to June 30, 2026, for exit orders received by the revised December 31, 2025 date; and (c) update the definition and calculation of the Division Generation, Utah Factor in Appendix C to correctly

¹¹ RMP states it has contacted Wolverine Fuels, which has not responded to RMP's communications. Application at 4.

calculate based on the extension of this agreement. DPU recommends the PSC approve the First Amendment effective January 1, 2024, conditioned on the other commissions approving the First Amendment without material change.¹²

OCS indicates it has been an active participant in the Framework Issues Workgroup since March 2020. OCS states that “progress has been slow and the workgroup has concluded that additional time is needed to resolve the outstanding issues.”¹³ OCS believes the 2-year extension should provide sufficient time to resolve all necessary issues and therefore recommends the PSC approve the First Amendment.

IV. DISCUSSION, ANALYSIS, AND CONCLUSION

The Legislature encourages settlement in matters before the PSC.¹⁴ The PSC may approve a settlement provided the evidence supports the PSC’s finding the settlement is just and reasonable in result.¹⁵

At the outset, the PSC notes the complex and competing interests attendant to interjurisdictional cost allocation and that over twenty different parties from five jurisdictions have agreed to the First Amendment notwithstanding their respective interests and objectives.

¹² DPU Comments at 4.

¹³ OCS Comments at 2.

¹⁴ Utah Code Ann. § 54-7-1.

¹⁵ *Id.* at § 54-7-1(3)(d)(i).

PacifiCorp must recover its costs in a manner sufficient to viably operate as a fully merged and integrated system to the benefit of all Parties. We acknowledge the tremendous amount of time and effort expended to resolve interjurisdictional allocation issues and recognize the overwhelming support for the 2020 Protocol and the extension RMP seeks in its Application. Utah ratepayers' interests were represented throughout those negotiations by two public agencies, DPU and OCS. Both of these agencies signed the 2020 Protocol, which the PSC approved. Further, the First Amendment has been executed by nearly all Utah stakeholders that are signatories to the 2020 Protocol, including DPU, OCS, the Utah Association of Energy Users, Utah Clean Energy, and Western Resource Advocates. Also, after a reasonable comment period, no party has opposed RMP's request for approval of the First Amendment.

Having reviewed the Application, filed comments, and there being no opposition, we find and conclude the First Amendment and Extension to the 2020 PacifiCorp Inter-jurisdictional Allocation Protocol is just, reasonable, and in the public interest.

V. ORDER

The PSC approves the Application, including the First Amendment and Extension to the 2020 PacifiCorp Inter-jurisdictional Allocation Protocol.

DATED at Salt Lake City, Utah, July 27, 2023.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

DW#328959

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on July 27, 2023, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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