Hayet OCS – 1D

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Rocky Mountain Power's Application for Approval of the 2023 Energy Balancing Account	))))))	**Docket No. 24-035-01** **Direct Testimony of Philip Hayet On behalf of the Utah Office of Consumer Services**

December 6, 2024

Q. WHAT IS YOUR NAME, TITLE, AND BUSINESS ADDRESS?

A. My name is Philip Hayet. I am the Vice President and a Principal of J. Kennedy and Associates, Inc. ("Kennedy and Associates"), whose address is 570 Colonial Park Drive, Suite 305, Roswell, Georgia, 30075.

Q. PLEASE PROVIDE A SUMMARY OF YOUR QUALIFICATIONS AND EXPERIENCE?

A. I have included a summary of my education, experience, and expert testimony appearances in Exhibit OCS 1.1D. I have previously testified before the Utah Public Service Commission ("PSC").

Q. ON WHOSE BEHALF ARE YOU APPEARING?

A. I am appearing on behalf of the Utah Office of Consumer Services ("OCS").

Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?

A. The purpose of my testimony is to discuss the OCS's findings and recommendations regarding Rocky Mountain Power's ("RMP") Energy Balancing Account ("EBA") filing covering the period of January 1, 2023 through December 31, 2023. As part of our evaluation, OCS reviewed RMP's EBA application and testimony, the recommended adjustments proposed by the Utah Division of Public Utilities ("DPU") in its direct testimony and in the accompanying audit report that was filed on November 5, 2023, as well as discovery responses that were filed in the docket.

Q. PLEASE PROVIDE A SUMMARY OF YOUR CONCLUSIONS AND RECOMMENDATIONS.

A. As a general matter, the DPU's 2024 EBA Audit Report for Rocky Mountain Power ("Audit Report") appears to be a detailed audit of RMP's EBA filing and deferral balance covering the period of January 1, 2023 to December 31, 2023. In particular, I agree with the DPU and believe their recommendations regarding the Schedule 137 prior period adjustments and the Washington Climate Commitment Act adjustments are reasonably supported based on the Audit Report and the DPU's testimony that was filed in this proceeding. OCS also agrees with the DPU's concern that the EBA deferral balance has grown significantly over time due to PacifiCorp's reliance on power purchases, and this observation is consistent with EBA issues raised in the currently ongoing rate case (Docket No. 24-035-04). The OCS's recommended adjustments are discussed below, and OCS reserves the right to address other issues that will be raised in additional testimony filed in this proceeding.

<u>Schedule 137 Out-of-Period Adjustment</u>

Q. PLEASE DESCRIBE THE DPU'S ADJUSTMENT FOR SCHEDULE 137 OUT OF PERIOD ADJUSTMENTS.

A. Schedule 137 relates to exports credits paid for customer-owned generation. Witness Smith describes the adjustment in direct testimony, noting that the adjustment reflects the prior period impacts of the program:

> The Company's request to recover $4.7 million with interest, in Schedule 137 costs for the prior periods January 2020 through December 2022 are not the result of any difference in operating and accounting periods. The reason for the

> Schedule 137 cost recovery now is simply because the Company has not yet recovered them and mistakenly did not include them in the proper accounts in prior periods. This is insufficient justification for recovery in periods for which rates have already been finalized.
>
> The Division recommends the removal of approximately $4.8 million (including interest) in Schedule 137 costs incurred in the years prior to the 2023 deferral year.[1]

Q. HAS RMP PREVIOUSLY ARGUED THE PSC SHOULD NOT ALLOW OUT OF PERIOD ADJUSTMENTS?

A. Yes. In the last EBA proceeding (2023 EBA for costs incurred January through December 2022), RMP argued against affording stakeholders the opportunity to present adjustments in a future EBA related to a previous EBA deferral period. RMP opposed preserving this right by arguing:

> However, the DPU and other parties should only be able to propose adjustments that relate to calendar year 2023 deferred costs that are presented in the 2024 EBA. The Company is only opposed to the DPU's request to be able to preserve the ability to propose adjustments to costs related to calendar year 2022 deferrals in the 2024 EBA.[2]

Furthermore, in that same testimony, RMP cited Utah Code Ann. § 54-7-13.5(2)(l)(ii) and explained that the statute only permits a 300-day period when EBA costs may be evaluated, and a final order issued.[3] The costs

[1] Docket No. 24-035-01 DPU Direct Testimony of Gary Smith, November 5, 2024, p. 6. l. 104
[2] Docket No. 23-035-01 Response Testimony of Jack Painter, December 7, 2023, p. 7, l. 125.
[3] Id. p. 7, l. 131.

from as early as January 2020 through December 2022 are well outside of the 300-day period.

Q. WHY WERE THE SCHEDULE 137 COSTS NOT INCLUDED IN PRIOR EBAS?

A. The EBA Audit report explained the reason the costs were not previously included as follows:

> The reason for the Schedule 137 cost recovery now is simply because the Company has not yet recovered them and mistakenly did not include them in the proper accounts in prior periods. This is insufficient justification for recovery in periods for which rates have already been finalized.[4]

RMP has had years to identify these costs, and RMP's mistake does not provide a sufficient reason to allow for an out of period adjustment. Furthermore, these were not unknown or unknowable costs, they were just overlooked, which means RMP is expecting current customers to now pay for costs that should have been assigned in some cases to a different set of customers. The OCS agrees with the DPU and recommends removal of approximately $4.8 million (including interest) in Schedule 137 costs incurred in the years prior to the 2023 deferral year.

Washington Climate Commitment Act (WA CCA) Adjustment

Q. PLEASE DESCRIBE THE DPU'S ADJUSTMENT RELATED TO THE WASHINGTON CLIMATE COMMITMENT ACT.

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[4] Docket No. 24-035-01 DPU Audit Report, p. 8.

A. DPU Witnesses DiDomenico and Koehler explained the adjustment in direct testimony and noted that the adjustment was based on costs that were incurred based on a state-specific initiative.

> Actual NPC was impacted by the Washington Cap & Invest program of the Climate Commitment Act, which required the Company to purchase allowances to cover greenhouse gas emissions related to Washington-based fossil fuel-fired generation at Chehalis and certain short-term firm market sales into Washington. Utah customers should not bear the costs of the Washington Cap & Invest program, a state-specific initiative designed to benefit Washington customers while shielding Washington customers from program costs. The $42.1 million (total Company) spent on allowances should be situs-assigned to Washington and should be removed from Utah-allocated NPC. We recommend that RMP's requested recovery of deferred EBAC should be reduced by $19,413,361 on a Utah-allocated basis, including interest [5]

Q. DO YOU AGREE WITH THE DPU'S WA CCA ADJUSTMENT?

A. Yes. This adjustment is designed to make a situs assignment of a state specific cost (allowance costs) to the state that will receive the benefits (allowance revenues). It is unreasonable to expect Utah customers to overpay for Chehalis energy benefits, in order to allow citizens in Washington State to reap the rewards of those overpayments. The OCS agrees with the DPU and recommends removal of approximately $42.1 million (total for PacifiCorp including interest) from the 2023 deferral year, as those costs should be situs assigned to Washington.

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[5] Docket No. 24-035-01 DPU Direct Testimony of DiDomenico and Koehler, p. 10, l. 136

<u>Reliance on Market Power Purchases</u>

Q. DID THE DPU RECOMMEND AN ADJUSTMENT ATTRIBUTED TO PACIFICORP'S INCREASED RELIANCE ON MARKET POWER PURCHASES?

A. Yes, and I am also troubled by the magnitude of PacifiCorp's 2023 deferral request and agree with the DPU's finding that there is a "…. concerning trend in the annual EBA deferral size due mostly to increases in power physical purchases….,"[6] and that "…. the need for such a large amount of purchases is, at least in part, the product of past planning failures."[7]

The DPU partly attributed the reason for the past planning failures to the fact that in recent IRPs, PacifiCorp prevented natural gas resources from being considered as selectable proxy resource types,[8] which led the PSC to decide that because PacifiCorp had "failed to substantially comply with the regulatory guidelines governing development of its 2021 Integrated Resource Plan, we decline to acknowledge it."[9]

The OCS is concerned about other planning deficiencies, as well including PacifiCorp's cancellation of the 2022 All Source RFP ("2022AS RFP"), PacifiCorp's tendency to rely on unidentified and uncommitted front office transactions to satisfy firm capacity obligations, and the breakdown of the Multi-State Process ("MSP") negotiations. Without effective planning

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[6] Docket No.24-035-01 DPU Direct Testimony of Gary Smith, p. 6, l. 114.
[7] Docket No.24-035-01 DPU Direct Testimony of Gary Smith, p. 7, l. 122.
[8] Docket No. 21-035-09 Order PacifiCorp's 2021 IRP, June 2, 2022, p. 5.
[9] *Id*, at p. 1.

and timely resource procurement, PacifiCorp has in the past and likely will in the future have to rely extensively on market purchases for energy required to serve the system.

Q. DID THE DPU CONCLUDE THAT PACIFICORP'S PLANNING AND COST RECOVERY OBJECTIVES ARE MISALIGNED?

A. Yes. In RMP's 2024 Rate Case proceeding, DPU witness Smith concluded that:

> The EBA, as now implemented, misaligns the Company's incentives in forecasting and managing NPC and in overall operational efficiency. The EBA has contributed to and been a mechanism perpetuating recent cost increases that are forecast to continue.[10]

Q. WHAT REASON DID PACIFICORP GIVE FOR CANCELLING THE 2022AS RFP?

A. In its April 3, 2024 letter providing notice of cancellation of the 2022AS RFP, PacifiCorp recited the history that led to the cancellation of the RFP. PacifiCorp stated that, "On September 23, 2023, the Company notified the Commission that it was suspending the 2022AS RFP PacifiCorp in order to evaluate changing conditions while making critical decisions for the long-term benefit of its system and customers."[11] PacifiCorp concluded from

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[10] Docket No. 24-035-04 Direct Testimony of Gary Smith, October17, 2024, l. 569.
[11] Docket No. 21-035-52, Notice of Cancellation of 2022AS RFP, April 3, 2024, p. 1, https://pscdocs.utah.gov/electric/21docs/2103552/333141RMPNtcCncltn2022RFP4-3-2024.pdf

evaluations conducted in its 2023 IRP that the 2022AS RFP should be cancelled, as it stated:

> The 2023 IRP Update preferred portfolio demonstrates that with limited procurement of battery resources in the near-term, which can be achieved outside of a request for proposals process, there is a material benefit to scaling down and delaying resource acquisition until after 2030.[12]

PacifiCorp's letter did not state what was meant by material benefits or how the benefits would be derived, and it is debatable that customers have benefitted from the cancellation of the RFP. Furthermore, besides the suggestion that PacifiCorp will acquire batteries, PacifiCorp's resource plans typically show that any near term gaps will be filled with uncommitted front office transactions ("FOT") so that capacity obligations and reliability requirements are met. PacifiCorp's letter concluded that any further resource acquisition decisions will be informed by the 2025 IRP. This will likely push out any significant resource acquisitions until after 2030.

Q. YOU MENTIONED THAT PACIFICORP'S RESOURCE PLANS TYPICALLY FILL GAPS WITH FOTS. PLEASE DISCUSS THAT FURTHER.

A. PacifiCorp's 2023 IRP and 2023 IRP Updates both required that PacifiCorp maintain a 13% planning reserve margin target ("PRM") to meet reliability requirements.[13] To prove it would be able to maintain a 13% PRM,

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[12] *Id.* at p. 1.
[13] Docket No. 23-034-10 PacifiCorp's 2023 IRP Amended, May 31, 2023, Volume 1, Chapter 6, p. 147, , https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2023-irp/2023_IRP_Volume_I_Final_5-31-23.pdf and 2023 IRP Update, April 1, 2024, Chapter 4, p. 44, https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2023_IRP_Update.pdf

PacifiCorp's normal practice for many years has been to identify front office transactions, also referred to as "Market Purchases," when a deficiency occurred. For instance, this can be seen in Table 4.2 from the 2023 IRP Update, which contains a summer load and resource balance report prior to including PacifiCorp's Preferred Plan incremental resources.

At the final section of the report (Table 4.2) showing results for the System, PacifiCorp's table can be interpreted to mean that unless PacifiCorp were to plan to acquire new incremental resources as part of its Preferred Plan, the System would have to rely on "Uncommitted FOTs to meet remaining capacity needs, ranging from 1,513 MW in 2024 to 1,000 MW in 2042."[14] In fact, PacifiCorp did plan to acquire new incremental resources, and Table 6.4 in the 2023 IRP Update report shows that the System would still have to rely on Market Purchases to meet remaining capacity needs, even after accounting for the new incremental resources associated with PacifiCorp's Preferred Plan. Table 6.4 indicates that PacifiCorp would still have to acquire Market Purchases ranging from 1,413 MW in 2024 to 348 MW in 2039 to meet Summer capacity needs on the west side of the System.[15] Without actually identifying firm resources that

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[14] *Id.*, Docket No. 23-034-10 PacifiCorp's 2023 IRP Update, p. 45.
[15] *Id.*, Docket No. 23-034-10 PacifiCorp's 2023 IRP Update, p. 93.

PacifiCorp will either construct and own, or purchase as part of a firm contract, PacifiCorp's customers will continue to be exposed to unhedged market energy purchase costs that will have to be recovered through the EBA.

Q. HAS PACIFICORP ALSO HAD DIFFICULTY IN NEGOTIATING MULTI-STATE COST ALLOCATIONS AND BALANCING STATE SPECIFIC PRIORITIES, WHICH HAVE LED TO CHALLENGES IN IRP PLANNING?

A. Yes. PacifiCorp provided notice to the PSC on July 11, 2024, that it was terminating negotiations on the Post-Interim Period Method agreement ("New Agreement"), as it determined it would be unlikely that a New Agreement could be reached by the sunset date of the 2020 PacifiCorp Inter-Jurisdictional Allocation Protocol ("Current Agreement") on December 31, 2025. PacifiCorp stated, "[i]t has become apparent to the Company that the complexities of achieving a negotiated agreement with sufficient time to seek required approvals is unlikely."[16] PacifiCorp now plans to propose its own allocation method in a filing it will make to the PSC and will seek approval through a docketed proceeding. PacifiCorp has not yet made such a filing, which is somewhat concerning, as there is only about a year that remains before the Current Agreement is set to expire.

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[16] Docket No. 23-035-20 Rocky Mountain Power's Notice, July 11, 2024 https://pscdocs.utah.gov/electric/23docs/2303520/334665RMPNtc7-11-2024.pdf

Q. GIVEN PACIFICORP'S RELIANCE ON MARKET PURCHASES STEMMING FROM PLANNING DEFICIENCIES, WHAT DOES THE OCS RECOMMEND CONCERNING THIS ISSUE?

A. Given the planning deficiencies I discussed above, I am greatly concerned by the risks and the costs customers are being forced to bear entirely, and the OCS recommends that the PSC open a new docket to address whether or not the EBA mechanism is appropriately acting as a risk sharing mechanism, or if it is acting as a backstop to PacifiCorp's failed planning processes. This docket should investigate more thoroughly the reasons deferral costs have increased so dramatically, market purchases have increased significantly, planning deficiencies have occurred, and also, how the EBA should be changed such that customers would have greater protections than currently exist.

Q. DOES THIS COMPLETE YOUR TESTIMONY?

A. Yes, it does.