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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

UTAH PUBLIC
SERVICE COMMISSION

In the Matter of the Applica-)
tion of UTAH POWER & LIGHT)
COMPANY and PC/UP&L MERGING)
CORP. (to be renamed)
PacifiCorp) for an Order)
Authorizing the Merger of)
Utah Power & Light Company)
and PacifiCorp into PC/UP&L)
Merging Corp., Authorizing)
the Issuance of Securities,)
Adoption of Tariffs and)
Transfer of Certificates)
of Public Convenience and)
Necessity and Authorities)
in Connection Therewith.)

POST-HEARING BRIEF
OF UAMPS AND
WASHINGTON CITY

Case No. 87-035-27

Pursuant to the Post-Hearing Procedural Order issued May 23, 1988 by the Commission in the captioned matter, the Utah Associated Municipal Power Systems and Washington City (collectively "UAMPS"), intervenors, hereby submit this Post-Hearing Brief.

INTRODUCTION

UAMPS intervened in this proceeding in order to protect its interest in ensuring that economic and reliable electric power resources will continue to be made available to its members if the merger is consummated. UAMPS' members are entirely dependent upon Utah Power & Light Company ("UP&L") for transmission services. Thus, UAMPS has a vital interest in the merger to the extent that it would affect the use of the UP&L transmission system by UAMPS' members.

Idaho Power Company Settlement

UAMPS also intervened in the merger proceeding before the Federal Energy Regulatory Commission ("FERC"). Other intervenors included Idaho Power Company ("IPC"), with whom UAMPS and Washington City have contracts for the purchase of up to 100 megawatts of power (up to 85 megawatts for UAMPS and up to 15 megawatts for Washington City). Because of an initial refusal by UP&L to provide a wheeling path to Washington City for this resource (see Exhibit "A" to the Statement of Position of Utah Associated Municipal Power Systems and Washington City), both UAMPS and IPC raised issues in the FERC proceeding relating to wheeling on the Merged Company's system.

During the FERC hearings, UP&L, PacifiCorp and PC/UP&L Merging Corp. (collectively the "Merged Company" or the "Applicants") settled with IPC certain issues concerning transmission access. The settlement is embodied in the Agreement Respecting Transmission Facilities and Services (the "Agreement"), and appears in the record in this proceeding as an attachment to Applicants' Exhibit 27.1, which is a letter dated April 22, 1988 from Mr. Forsgren to the Commission Chairman. Section 4 of the Agreement provides for wheeling up to 65 megawatts of the IPC resource under the IPC/UAMPS contract and up to 15 megawatts of the IPC resource under the IPC/Washington contract.

In connection with the Agreement, UAMPS and Washington City agreed not to oppose the concept of opportunity costs in proceedings before the FERC relating to the wheeling of the IPC resource. The concept of opportunity cost has not yet been defined in detail either by a regulatory body or by the parties interested in the Agreement, as indicated by the testimony of Mr. Topham in this proceeding (Tr. 1188-89). However, there is general agreement that it is intended to represent a component of a wheeling rate which would essentially leave the Merged Company's ratepayers neutral as to the economic effect of the wheeling transaction. In other words, an opportunity cost rate component would compensate the Merged Company for revenue that it might have lost by virtue of committing a portion of its transmission system to the wheeling transaction as opposed to other transactions, such as off-system sales.

It is important to note that in neither the FERC case nor in this case has there been any evidence adduced to indicate that there will in fact be the need for an opportunity cost component in the rate for wheeling the IPC resource. For purposes of this proceeding, it is only necessary to establish that should there be a potential diminution in revenues due to the implementation of Section 4 of the Agreement, the opportunity cost factor will compensate for those revenues under the applicable wheeling rate.

Wheeling Policy

During the FERC merger proceedings, there was considerable testimony with regard to the criteria under which UP&L and the merged company would agree to wheel. These criteria are incorporated in the Wheeling Policy, which is an exhibit to the post-hearing brief filed by the Applicants in the FERC proceeding. The Wheeling Policy also appears in the record of this case as an attachment to Applicants' Exhibit 27.1.

The Wheeling Policy not only incorporates the criteria under which wheeling would be provided into, out of or through an integrated service area of the Merged Company, but also provides for opportunities for "transmission-dependent utilities" to participate in construction or upgrade of transmission facilities. The joint participation provisions are found in Section VIII of the Wheeling Policy. The term "transmission-dependent utilities" is defined to include municipalities such as those which are members of UAMPS (Tr. 1177).

The Wheeling Policy states that the existing UP&L Utah service territory will be a separate integrated service area of the Merged Company.

Section VIII of the Wheeling Policy provides that the Merged Company will give notice to transmission-dependent utilities of its intention to construct new facilities and will

allow the utility the opportunity to participate in construction to the extent that it does not otherwise impair the reliability of the system or interfere with its legitimate use by the Merged Company. The participant would share equally in the costs and benefits of the project. In addition, if upgrades or additions are needed in order to accommodate the needs of a transmission-dependent utility, the Merged Company will allow the transmission-dependent utility to make those upgrades at its own expense, as long as it does not unduly interfere with the operations of the merged company.

Certain components of the Wheeling Policy are the subject of dispute by UAMPS in the FERC case, including the length of time within which the joint participation provisions will be in force. However, the general concerns embodied in Section VIII of the Wheeling Policy are consistent with the proposals which UAMPS was prepared to advance in this case.

UAMPS believes that if the Agreement and Wheeling Policy are implemented, the merger will result in a significant benefit to UAMPS' members' ratepayers. This is particularly true if the Wheeling Policy is modified as suggested by UAMPS in its brief in the FERC case.

UAMPS does not propose that this Commission impose as conditions to the approval of the merger the provisions of the

Agreement and the Wheeling Policy. However, UAMPS opposes any conditions which would interfere with the full implementation of the Wheeling Policy and the Agreement.

UAMPS' POSITION ON CERTAIN ISSUES

The discussion below addresses only two of the major issues outlined in the Commission's Post-Hearing Procedural Order.

IX. Merger Costs (including premium to Utah Power & Light shareholders)

Those who oppose the merger have argued that the merger will result in costs to ratepayers of UP&L. We address herein only the argument that the Agreement and the Wheeling Policy would somehow result in merger costs.

As indicated above, Section 4 of the Agreement expressly contemplates the inclusion of an opportunity cost component in the wheeling rates applicable to the wheeling of the IPC resource in order to ensure that the Merged Company suffers no loss of revenue in making part of its transmission system available for firm wheeling.

Mr. Topham testified at length regarding the opportunity cost concept. He explained that the fundamental purpose of the opportunity cost component is to ensure that the transaction is revenue neutral for the volume of energy being sold (Tr. 1160). The intent of the Merged Company would be to

fashion an opportunity cost component which would make a buy-sell transaction and a firm wheeling transaction as nearly equivalent as possible (Tr. 1168).

Mr. Steinberg pointed out that if the merged system wheels and receives opportunity costs, those costs would be reflected as a merger benefit. He further pointed out that with an opportunity cost component in the wheeling rates on the merged system, there would be "a wash as between the merger case and the stand-alone case" insofar as the projection of merger-related costs were concerned (Tr. 1068).

Mr. Helsby admitted that an opportunity cost component would mitigate the lost revenue from off-system sales that would otherwise be available if wheeling was not provided (Tr. 2136-37). He admitted that there was no study or attempt to quantify the alleged costs that Section 4 of the Agreement would impose on the merged system (Tr. 2136-37).

It is clear that the record contains no support for the proposition that wheeling the IPC resource to UAMPS and Washington would impose any cost as a result of the merger.

The Wheeling Policy provides for an opportunity cost factor to make the wheeling transaction revenue neutral. In addition, the provisions for participation in transmission construction found in Section VIII of the Wheeling Policy will not result in any cost or detriment to ratepayers or

shareholders of the Merged Company. There would be no additional costs imposed because the participants would not be detracting or diminishing the availability of facilities on the merged system. Rather, the participants would be augmenting facilities or participation in construction at their own expense to provide additional capacity which would not otherwise be available. The Wheeling Policy, therefore, will not impose any cost on the merger.

X. Proposed Conditions (including comments on commitments or stipulations in other jurisdictions)

A review of the conditions proposed by the various parties to this proceeding does not reveal any which would impair UAMPS' ability to take advantage of the Agreement or Wheeling Policy. UAMPS is, however, concerned that the arguments of certain intervenors that the Agreement and Wheeling Policy would be a cost of the merger and, therefore, a detriment to the Utah ratepayers, could result in a Commission order which would contain conditions which would be inimical to the Agreement and Wheeling Policy. UAMPS strongly urges the Commission not to impose any condition which would be contrary to or which would limit the benefits of the Agreement and Wheeling Policy. It is doubtful whether the Commission would have the legal authority to impose a condition on the merger which would limit the ability of the FERC to regulate wheeling under the Agreement or under the Wheeling Policy.

CONCLUSION

UAMPS respectfully urges the Commission to approve the merger without any condition which would diminish the benefits arising from the Agreement or the Wheeling Policy.

DATED this 3rd day of June, 1988.

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CERTIFICATE OF MAILING

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