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**MEMORANDUM**

To: Public Service Commission

From: Division of Public Utilities, Committee of Consumer Services, Utah Clean Energy, Sego, Wal-Mart, Rocky Mountain Power/PacifiCorp, Questar Gas Company, Western Resource Advocates, IBEW Local 57, Salt Lake Community Action Plan, Utah State Energy Program, Intermountain CHP Center, Central Valley Water, and the UAE Intervention Group (collectively, the "Work Group")

Subject: PURPA 111(d) standard (EISA sec. 532) (16)(A) and (16)(B),  
Docket No. 08-999-05

Date: April 30, 2009

**ISSUE**

The Energy Independence and Security Act of 2007 (EISA) requires the Utah Public Service Commission (Commission) to consider and make a determination for integrating energy efficiency resources into utility, state, and regional plans. This memo and report specifically addresses the addition to the Public Utility Regulatory Policies Act (PURPA) of 1978<sup>1</sup> section 111(d) standard (16)(A) and (16)(B) as listed below:

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<sup>1</sup> Letter from the Utah Public Service Commission to the U.S. Department of Energy, dated August 28, 2008 (as required by 16 U.S.C. § 2612(c), <http://www.psc.utah.gov/utilities/misc/08docs/0899905/082808not.pdf>).

**PURPA 111(d) Standard 16**

- (16) INTEGRATED RESOURCE PLANNING - Each electric utility shall***  
***(A) integrate energy efficiency resources into utility, State, and regional plans; and***  
***(B) adopt policies establishing cost-effective energy efficiency as a priority resource.***

PacifiCorp (the Company) is the only electric utility for which the Commission has comprehensive ratemaking authority over and which the Commission determined is subject to this PURPA requirement.

**RECOMMENDATION**

Regarding standard 16(A), the work group determined that the Commission already has comparable standards in place that are equivalent to the criteria set forth in this standard. The Company has acquired a diverse portfolio of energy efficiency resources and currently plans to target increased participation levels in various programs. The comments that follow identify the statutes and regulations that have been put in place by the Commission to integrate energy efficiency resources into utility, state, and regional plans as identified by the work group.

This memorandum also references programs and plans that the Company has implemented that meet the requirements set forth in standard 16(B). In the Company's resource planning process, energy efficiency and supply side resources are selected based on their cost effectiveness, customer-rate effect, and the balance between cost and risk exposure. Energy efficiency resources are selected for implementation over supply side resources when they compare favorably to supply side resources with respect to the criteria listed above. Energy efficiency resources are considered equally along with supply side resources in the Company's resource planning process.

It is recommended that the Commission not adopt standard 16(A) or 16(B), as the Commission has existing policies and practices in place that satisfy the criteria set forth in both standards.

## **BACKGROUND**

On November 5, 2008, the Commission scheduled an informal proceeding to discuss the new integrated resource planning standard applicable to electric utilities (Title 16 U.S.C. 2621(d)(16)) enacted by the 2007 Energy Independence and Security Act (EISA). As a result of this proceeding, a work group was formed to consider and make a determination on the proposed new federal standards. The Commission scheduled a Technical Conference regarding these matters on January 14, 2009 in Docket No. 08-999-05.<sup>2</sup> The attendee list is attached to this document.

The work group recognizes the importance of following the PURPA-required procedures in making a Commission determination regarding the proposed PURA standards. Title 16 USCS § 2621 identifies the procedural requirements for consideration and determination. The consideration must be made after public notice and hearing and must be in writing, based on findings and evidence, and be made available to the public. The U.S. Code states the following:

Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.<sup>3</sup>

Section 16 also states that “the procedures for the consideration and determination shall be those established by the State regulatory authority.”<sup>4</sup>

After an in-depth analysis of the PURPA standards 16(A) and 16(B) respectively, the work group determined by consensus that the Commission already has comparable energy efficiency standards, and the Company has programs in place (see below) such that there is no need to adopt the new standards at this time. In fact, adopting the standards might confuse some of the

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<sup>2</sup> Docket 08-999-05 “In the Matter of the Consideration of the Amendment of Title 16 U.S.C. 2621(d) and the Addition of Title 42 U.S.C 6344 by the U.S. Energy Independence and Security Act of 2007,” December 23, 2008.

<sup>3</sup> 16 USCS § 2621 (a).

<sup>4</sup> Id at (b) (2).

programs and plans already in place in several other Utah dockets addressing energy efficiency resources. The existing standards and programs in place include:

- IRP guidelines
- Modeling procedure for energy efficiency in the 2008 IRP
- Cost effectiveness test for energy efficiency
- Successful energy efficiency programs
- Company support for state policies in the 2009 Legislative Session

### **ANALYSIS**

The Commission regulates only one investor-owned electric utility in the state, PacifiCorp, dba in Utah as Rocky Mountain Power. The Company accounted for 80.66 percent of total retail electric sales in Utah during the 12 months of 2008.<sup>5</sup> In addition to PacifiCorp, there are several small, rural electric co-operatives over which the Commission exercises some regulatory authority, but none of these co-operatives are required to submit integrated resource plans. The state has 38 municipal electric utilities, however they are outside the Commission's purview. Since the early 1990s, PacifiCorp has been required to provide a biennial integrated resource plan (IRP) with an update issued a year after each plan.<sup>6</sup> The Commission defines the IRP as a planning process used by the utility to evaluate possible resources "in order to meet the current and future customer electric energy service needs at the lowest cost to the utility and customer, and in a manner consistent with the long-run public interest."<sup>7</sup>

With respect to integrated resource planning, the Commission's Report and Order on Standards and Guidelines (Order) in Docket No. 90-2035-01 states the following:

The Commission reaffirms its position on this threshold issue. Demand-side and supply-side resources must be evaluated on a consistent and comparable basis.<sup>8</sup>

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<sup>5</sup> U.S. Energy Information Administration, January-December 2008, 22,656,367 MWh / 28,088,685 (MWh) "Electric Power Monthly." From EIA – 826.

<sup>6</sup> See Utah Code Annotated 54-17-301.

<sup>7</sup> Docket No. 90-2035-01, Report and Order on Standards and Guidelines, September 5, 1990, p. 17.

<sup>8</sup> Id at p. 15.

PacifiCorp has been operating successful energy efficiency programs since the late 1980s. Since the 2001 western energy crisis, the Company's Demand Side Management (DSM) pursuits have expanded in terms of investment level, state presence, breadth of DSM resources pursued and resource planning considerations. Company investments have increased year on year with 2008 investments exceeding \$76 million (all states) with \$36 million in the state of Utah. Work continues on the expansion of program portfolios in the states of Utah, Washington, Idaho and California. In late 2008, the Company received approval to begin offering energy efficiency programs to Wyoming customers beginning in January 2009. In Oregon, the Company is working closely with the Energy Trust of Oregon on helping to identify additional resource opportunities, improve delivery and communication coordination, and ensure adequate funding and company support in pursuit of energy efficiency resource targets. PacifiCorp's planning methodology, treatment of energy efficiency as a resource, and energy efficiency programs are documented in the Company's integrated resource plan. Company resource plans dating back to 2003 can be found on the Company's website at:

<http://www.pacificorp.com/Navigation/Navigation23807.html>.

In PacifiCorp's 2007 IRP, energy efficiency resources accounted for approximately 2.2 million megawatt-hours within the 2007 preferred portfolio. In addition to the energy efficiency resources identified in the 2007 IRP, the Company completed a system-wide demand-side resource market assessment, filed in Utah under Docket No. 08-035-56. The Company will incorporate the information from this study, along with the resources identified in the 2007 IRP into the planning assumptions and forecasts going forward that will identify and develop the energy efficiency resources included in the Company's next Integrated Resource Plan. As an example of this, in June 2008 the Company updated its 2007 IRP, using information made available by the demand-side resource potential assessment study. The information from the study increased the Company's forecasted energy efficiency resources to 4.6 million megawatt-hours from the 2.2 million megawatt-hours included in the 2007 IRP. Modeling of energy efficiency resources in the 2007 IRP process was done by decrementing the load forecast by the 2.2 million megawatt-hours. In the next IRP, energy efficiency resources available will be

adjusted based on the results of the comprehensive system-wide demand-side resource market assessment study, and the resources will be treated functionally equivalent to supply-side resources utilizing supply-curves.

On April 26, 2006, Utah's Governor released a comprehensive energy efficiency plan for the State of Utah.<sup>9</sup> Then on May 30, 2006, the Governor issued an Executive Order on improving energy efficiency in the state of Utah.<sup>10</sup> The policy sets forth a goal to increase energy efficiency by 20% by the year 2015. Finally, in the 2009 General Session, the Utah Legislature passed HJR 9, a Joint Resolution on Cost-Effective Energy and Demand-Side Management, which recognizes energy efficiency as a priority resource in Utah and suggested a voluntary energy savings goal for Rocky Mountain Power.

As demonstrated by the information presented above, the Commission has an existing standard in place that requires energy efficiency resources to be considered on a consistent and comparable basis in resource planning. Additionally, as demonstrated above, PacifiCorp integrates energy efficiency resources into its resource planning process. Together, these items combine to satisfy standard (16)(A). Regarding standard (16)(B), HJR 9 encourages energy efficiency resources to be considered for the State of Utah and Utah's utilities. In addition, the state has energy efficiency as a top priority in Utah's energy plan. In the Company's resource planning process, energy efficiency resources are considered equally with supply side resources. Energy efficiency resources are selected for inclusion in the preferred portfolio if they compare favorably to supply side resources during the resource planning process.

## **CONCLUSION**

The work group reviewed and discussed the criteria set forth in the new PURPA standard with respect to integrated resource planning and energy efficiency as a priority resource. The work group concluded that the Commission should not adopt the PURPA addition section 111(d)

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<sup>9</sup>“Advancing Energy Efficiency in the State.”

[http://energy.utah.gov/energy/governors\\_priorities/utah\\_policy\\_to\\_advance\\_energy\\_efficiency\\_in\\_the\\_state.html](http://energy.utah.gov/energy/governors_priorities/utah_policy_to_advance_energy_efficiency_in_the_state.html).

<sup>10</sup> [http://energy.utah.gov/energy/docs/energy\\_executive\\_order.pdf](http://energy.utah.gov/energy/docs/energy_executive_order.pdf)

standard (16)(A) because comparable standards and practices are already in place and adoption of the additional PURPA standard is unnecessary. With respect to standard (16)(B), Utah has adopted policies that recognize energy efficiency as a priority resource, and thus it is unnecessary to adopt this standard. The Commission's present standards have been applied in the Company's IRP process, DSM energy efficiency programs, and other dockets and policies as described above. The work group has identified in writing and presented evidence that is available to the public that we have considered and determined that we can recommend the Commission not adopt either standard (16)(A) or standard (16)(B).