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Division of Public Utilities

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MEMORANDUM

TO: Public Service Commission

FROM: Division of Public Utilities

Chris Parker, Director
Artie Powell, Energy Manager
Charles Peterson, Technical Consultant

DATE: January 19, 2012

RE: PacifiCorp Annual Acquisition Compliance Report, Docket Nos. 11-999-01/05-035-54.

I. ISSUE

In a letter dated June 1, 2010, PacifiCorp dba Rocky Mountain Power (Company) filed its annual status report (Report) concerning the Acquisition Commitments made pursuant to Commitment 49 of the Stipulation in Docket No. 05-035-54. The Report covers the status of the commitments as of March 31, 2010, roughly the fourth anniversary of the Acquisition. This Memorandum provides comments by the Division of Public Utilities (Division) on the status of PacifiCorp's Acquisition Commitments. This is fifth and final report under Commitment 49.

II. RECOMMENDATION (No Action)

Based upon the following review, the Division believes that PacifiCorp is generally in compliance with its Acquisition commitments.

III. COMMITMENTS REVIEW

Since the close of the Acquisition in March 2006, the Company has complied with the various general and Utah-specific commitments. A number of the commitments cannot be documented since they would only apply if some event occurs;¹ others have little meaning within the context of the Acquisition;² and many commitments were essentially one-time events that occurred in the first two years following the Acquisition.³ The remaining commitments are on-going, for which the Division is unaware of any material non-compliance. Furthermore, with one exception, over the past five years no other interested party has raised a compliance issue.⁴ In past years the Division has recommended that the Company make improvements to future Reports by including any studies or documents that have been created during the preceding year that are the basis of compliance with the Acquisition commitments, or alternatively, make sure the Division has been previously provided with such studies or other documents. The Company has improved its reporting over the last couple of years.

With this final Report under Commitment 49, the Division notes that Commitment 42(b) has a somewhat ambiguous status. Under Commitment 42(b) the Company was to organize a “global warming working group” and in conjunction with this working group, “PacifiCorp will develop and file with the Commission its strategy, which MEHC supports, for reducing its greenhouse gas emissions.” By the end of 2007, the working group was formed and met a couple of times; interested parties were solicited for comments. However, there has not yet been a formal report filed with the Commission. The Company has indicated to the Division that consideration of issuing a report remains on hold at MEHC. The Company indicates in its June 2011 report on its

¹ For example, see commitments 11, 12, U2, U11, U32, and U42.

² For example, Commitments 2, 7, 28, 30, and 31 indicate that PacifiCorp will continue to obey the law and honor its contracts. PacifiCorp cites evidence for Commitment 19, but it would be difficult, in principle, to demonstrate that the Company was not in compliance.

³ For example, see Commitments 16, 29, 50, 52, 53, U6, U12, U26, U29, U38, and U40.

⁴ The exception was for Commitment U26. The issue was resolved in 2008; see Docket No. 07-2035-02.

acquisition commitments that Commitment 42(b) has been satisfied. Because there is no deadline in Commitment 42(b) for submitting this report, the Division cannot conclude that there is non-compliance; consequently, it appears that the completion of this commitment remains uncertain.

IV. CONCLUSION

Based upon the review of the June 1, 2010 report and supporting documents along with the Division's on-going monitoring of the Acquisition Commitments since the Acquisition closed, the Division believes that PacifiCorp is substantially in compliance with its Acquisition commitments through March 31, 2010 and has generally made a good faith effort to keep the Division apprised of the Company's activities related to these commitments.

cc Dave Taylor, PacifiCorp
Michele Beck, Office of Consumer Services