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March 30, 2005

**VIA ELECTRONIC MAIL (records@wutc.wa.gov)**
**AND OVERNIGHT MAIL**

Ms. Carole J. Washburn
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

**RE: Docket No. UE-032065 - PacifiCorp**
**Status Report on Inter-Jurisdictional Cost Allocations**

Dear Ms. Washburn:

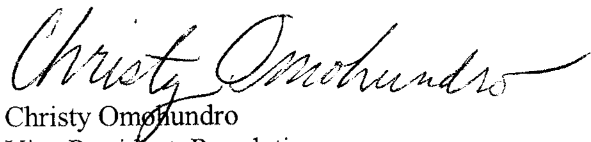
Enclosed are an original and sixteen (16) copies of the Status Report on Inter-Jurisdictional Cost Allocations, as required by the Commission's Order No. 06 in the above docket. Ordering paragraph number (3) in that Order stated as follows:

> On or before April 1, 2005, PacifiCorp will present a detailed status report to the Commission concerning inter-jurisdictional cost allocation, including recommendations for further proceedings in Washington. (Order No. 06, ¶ 95.)

The enclosed Status Report is in compliance with this requirement.

Please call the undersigned at (503) 813-6092 or John Rush at (503) 813-6957 if there are any questions with respect to this filing. Thank you for your assistance.

Very truly yours,



Christy Omohundro
Vice President, Regulation

Enclosure
cc: Administrative Law Judge Dennis Moss
Service List

## CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing document upon the parties of record in this proceeding by first-class mail, addressed to said parties/attorneys' addresses as shown below:

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DATED: March 30, 2005.

Peggy Ryan

**BEFORE THE**
**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

# PACIFICORP

**STATUS REPORT**
**ON**
**INTER-JURISDICTIONAL COST ALLOCATIONS**

**DOCKET NO. UE-032065**

**March 2005**

# PacifiCorp
# Status Report
# On Inter-Jurisdictional Cost Allocations
# To Washington Utilities & Transportation Commission
# March 30, 2005

**Executive Summary**

The following Status Report on PacifiCorp Inter-jurisdictional Cost Allocation was prepared in response to the Commission's Order No. 06 in Docket No. UE-032065 and the resulting discussions between PacifiCorp, Commission Staff, Industrial Customers of Northwest Utilities (ICNU), and the Public Counsel Section of the Office of the Attorney General (Public Counsel). That order directed PacifiCorp to initiate discussions aimed at development of an agreed methodology for inter-jurisdictional cost allocation to be used by PacifiCorp in Washington.

The report begins with a section that provides the historical background of PacifiCorp allocations beginning with the Utah Power - Pacific Power merger in 1989 and progressing through the recent Multi-State Process which resulted in the Revised Protocol allocation method[1]. The next section provides an update of the status of the Revised Protocol in PacifiCorp's other states, followed by a section on Washington's unique procedural history.

Section 4 focuses on the activities since the Commission issued its Order in October 2004, initiating the discussions about PacifiCorp allocations in Washington. It provides a summary of the procedural history of the discussions, outlines the issues discussed, and explains that, despite best efforts, parties did not agree on a common allocation method for Washington.

In the final section, PacifiCorp provides three recommendations for further proceedings in Washington. The recommendations are to: 1) hold a public session with Commissioners, parties to these discussions, and other interested parties to provide the opportunity to clarify perspectives, comment on the Status Report, and respond to questions about allocations; 2) recognize the opportunity for Washington parties to participate in continued dialog about PacifiCorp inter-jurisdictional allocations through the Revised Protocol workgroups that have been established; and 3) proceed with PacifiCorp's current plan to file a general rate case in Washington this Spring, which will include a proposal to adopt Revised Protocol.

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[1] See Appendix A for a copy of the Revised Protocol

## Section 1 – Background and History of PacifiCorp Allocations

Inter-jurisdictional cost allocation has been a contentious issue for PacifiCorp since the 1989 merger between Pacific Power and Utah Power. Prior to the merger, PacifiCorp followed a Rolled-In cost allocation methodology that allocated the costs of the Company's joint facilities across the six states in which PacifiCorp operated.[2] In approving the merger, each state commission found the merger would result in cost savings and would be in the public interest,[3] but left undecided the issue of inter-jurisdictional cost allocation. The primary allocation issue at the time of the merger was how to equitably combine the higher-cost Utah Power system with the relatively lower-cost Pacific Power system.

At the time of the merger, the Utah Public Service Commission (Utah PSC) indicated its preference for a Rolled-In allocation method (essentially an average system cost allocation method), but it recognized the need for a period of transition. The Utah PSC anticipated a 10 year transition period to Rolled-In with a shrinking "fairness adjustment" over that time. In contrast, Washington and Oregon indicated their preference for retaining the low cost hydro-electric resources for the benefit of customers in their respective jurisdictions. Allocation methods that recognized a "hydro-endowment" were therefore preferred in the former Pacific Power States.

The PacifiCorp Inter-jurisdictional Task Force on Allocations (PITA) was convened shortly after the 1989 merger approval and continued for approximately 10 years. During that time, inter-jurisdictional allocation methods evolved and four different methods were utilized by the Company for filings and reporting purposes. These methods had varying degrees of support among the states until 1999, when the Utah PSC adopted a Rolled-In allocation method in conflict with the rest of the states. The lack of agreement on an inter-jurisdictional cost allocation method among PacifiCorp's states resulted in an "allocation gap" of between $30 and $50 million per year which denied PacifiCorp a reasonable opportunity to recover its prudently incurred costs.

In addition – and of growing importance – slower growing states began raising concerns regarding perceived inequities related to Utah's relatively higher load growth as compared with the rest of the system. Utah's relatively higher load growth combined with the construction of new generating facilities raised concerns that the slower growing states may be unfairly paying for Utah's load growth. These concerns raised the specter of a large and growing risk of allocation shortfalls related to investment in new resources.

To address these and other emerging allocation risks, the Company filed the Structural Realignment Proposal (SRP) in December 2000 that proposed the creation of six individual state distribution companies, a generation company, and a service company. The proposal allowed

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[2] *See* Cause No. U-86-02, Second Supplemental Order at 33-34 (Sep. 1986).

[3] WUTC Docket No. U-87-1388-AT, Second Supplemental Order (July 1988). In its order, the Commission found that "there are substantial economies to be gained in the first five years of the merger," and directed the Company to provide Washington ratepayers with their allocated share of $59 million in merger benefits in a subsequent rate filing.

individual states to more freely pursue state specific policies without impact to other states or to PacifiCorp's shareholders while retaining benefits associated with PacifiCorp's six-state integrated system.

The SRP filings proved to be controversial – in large measure because of a concern that the proposed restructuring would result in a loss of jurisdiction from state commissions to the Federal Energy Regulatory Commission and the Securities and Exchange Commission. Ultimately, a number of parties and some state commissioners encouraged the Company to seek other means of resolving the Company's concerns without requiring a legal restructuring of the Company. PacifiCorp was strongly encouraged to initiate an informal process aimed at achieving consensus among interested parties regarding a number of important issues facing the Company. In March 2002, PacifiCorp invited parties from all six of the states where it serves customers to join in the Multi-State Process (MSP).

For a year and a half, more than 50 individuals representing 18 separate parties attended a series of 9 collaborative meetings to discuss allocation issues among the states. A facilitator was engaged to help manage conversations toward a consensus. More than 40 separate studies were completed to examine potential allocation mechanisms. There were technical sessions to review the details of different methods. By the spring of 2003, there were two allocation methods under consideration – the Hybrid and the Dynamic. The Hybrid method split the Company's territory into two control areas for accounting purposes only and envisioned a complex interchange accounting methodology to create market-based transfer pricing between control areas on an after-the-fact basis. The Dynamic method involved allocation of generation resources on a load ratio share across the entire system with an adjustment for hydro resources to the former Pacific Power States that phased out over a few years.

In July 2003, the final MSP group meeting was held in Las Vegas. No consensus was reached among the parties as to the appropriate mechanism to adopt for all states. The Company was encouraged to develop and file a mechanism that reflected the feedback received at the group meetings. In September 2003, PacifiCorp filed a method referred to as the "Protocol" with commissions in Idaho, Oregon, Utah and Wyoming. Due to unique procedural considerations discussed in Section 3 below, the Protocol was filed in Washington as part of the Company's general rate proceeding in December 2003.

Following the September 2003 filing, procedural schedules were established in Oregon and Utah. The commissions and other parties in each of those states expressed a preference for a continued exchange of information among the states and a continued attempt to achieve a consensus solution to MSP issues. Therefore, the schedules in Utah and Oregon provided for a number of technical conferences, public meetings and meetings among commissioners from different states – all aimed at achieving a consensus among the parties. A mediator was re-engaged in April 2004 to help facilitate discussions and preside over a multi-party meeting in late April.

As a result of the April 2004 meeting and following discussions and stipulations with parties, PacifiCorp filed the method known as the "Revised Protocol" with Idaho, Oregon, Utah and Wyoming in July 2004. Revised Protocol was included in the Washington rate proceeding shortly thereafter as part of the Company's rebuttal case, although the Company did not formally

propose adoption of the Revised Protocol in that proceeding due to unique procedural considerations discussed in Section 3 below.

**Section 2 – Status of Revised Protocol in Other States**

At this time, the Company has received final orders approving the use of the Revised Protocol and related Stipulations from the state commissions in Idaho, Oregon, Utah and Wyoming. Details of each state process leading up to the approval are provided below.[4]

Idaho – The Idaho Public Utilities Commission (Idaho PUC) issued an order on February 28, 2005, approving the use of Revised Protocol[5] and adopting the terms of the settlement agreement signed by PacifiCorp, Idaho PUC Staff and Monsanto Company. Revised Protocol allocates more costs to Idaho than the previously utilized allocation method. In order to smooth the transition to Revised Protocol, the settlement includes provisions to cap the impact of the difference between allocation methods to 1.67% above the revenue requirement as calculated under the Rolled-In allocation methodology for a four-year period. A copy of the Idaho PUC's order is included as Appendix B to this Status Report.

Oregon – The Public Utility Commission of Oregon (Oregon PUC) issued an order on January 12, 2005, approving the use of Revised Protocol[6] and adopting the terms of the settlement signed by PacifiCorp, Oregon PUC Staff, Citizens' Utility Board and AARP. The order also included a directive to develop a hybrid method for use as a reporting comparison on an ongoing basis. A copy of the Oregon PUC's order is included as Appendix C to this Status Report.

Utah – The Utah PSC issued an order on December 14, 2004, approving use of the Revised Protocol[7] and adopting terms of the settlement agreement signed by all 8 Utah parties to the MSP proceeding. As in Idaho, use of Revised Protocol represents a significant rate increase compared to Rolled-In. Therefore, the settlement in Utah includes a series of caps for the revenue requirement difference between Rolled-In and Revised Protocol, followed by a series of rate premiums and finally a monitoring period. A copy of the Utah PSC's order is included as Appendix D to this Status Report.

Wyoming – The Wyoming Public Service Commission (Wyoming PSC) issued an oral bench order approving use of the Revised Protocol at the conclusion of hearings on October 19, 2004. The bench order also adopted terms of the settlement reached with PacifiCorp, the Office of Consumer Advocate, AARP, and Wyoming Industrial Energy Consumers. A written order was issued on March 2, 2005, and is included as Appendix E to this Status Report.[8]

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[4] California elected to monitor the MSP proceedings but not formally participate. The Company anticipates resolution of use of Revised Protocol in its next general rate proceeding in California.

[5] Idaho Public Utilities Commission – Case No. PAC-E-02-3, Order No. 29708, dated February 28, 2005

[6] Oregon Public Utility Commission – Docket No. UM-1050, Order No. 05-021, dated January 12, 2005

[7] Public Service Commission of Utah – Docket No. 02-035-04, dated December 14, 2004

[8] Public Service Commission of Wyoming – Docket No. 20000-E1-02-183, Record No 7395, dated March2, 2005.

Each state that has adopted Revised Protocol recognized that it accepted certain trade-offs in order to reach a consistent regional solution. Language in several of the state commission orders indicates the value the various commissions placed on agreement among the states. For example:

Idaho PUC:

> We note of significance that the Company dispatches resources on a company or system-wide basis. This method of resource utilization, we believe, seemingly argues for a Rolled In approach as to allocation of costs. Recognizing, however, that there are some perceived inequities of this approach on the west side of the Company's system, we find the Revised Protocol to be a reasoned and acceptable methodology.
>
> (Appendix B, Order No. 29708, page 10)

Oregon PUC:

> We agree with Staff and hold that ratification of the Revised Protocol is in the public interest. While the Revised Protocol does not eliminate all subsidization [due to load growth], as previously discussed, the Revised Protocol maintains a large majority of the hydroelectric resources and Mid-Columbia contracts for the Northwest. The agreement to accept a larger share of existing qualifying facilities contract cost, in consideration of revising the treatment of the Mid-Columbia contracts, is appropriate.
>
> (Appendix C, Order No. 05-021, page 8)

Further, in his concurring opinion, Oregon PUC Commissioner Savage explains a trade-off represented in the adoption of Revised Protocol:

> I concur with the finding that ratification of the Revised Protocol is in the public interest.
>
> I believe, however, that the Hybrid Method of cost allocation (Staff/102, Hellman/62-66) is superior to Revised Protocol in some ways. . . . Its failing is that it is not acceptable to the other states, just as Utah's preferred approach – the Rolled-In Method – is not acceptable to Oregon.
>
> As the record shows, there would be a cost to Oregon ratepayers if the states fail to adopt a common cost-allocation method that allows Pacific the opportunity to recover reasonable and prudently incurred costs. The Revised Protocol is acceptable to other states, and on balance, adopting it is in the public interest.
>
> (Appendix C, Order No. 05-021, page 13)

Utah PSC:

> We recognize the problem articulated by the parties and find it important to work with the Company's other states to find an equitable resolution that will provide the Company the confidence to make needed investments in infrastructure and continue least-cost system planning and operation. We find the Stipulation's use of Rolled-In and rate mitigation measures together with the Revised Protocol, which was unopposed at the hearing, is a reasonable resolution of the problem and with protective conditions, will provide just and reasonable rates for Utah customers.
>
> (Appendix D, Order No.02-035-04, page 40)

Wyoming PSC:

> Both our review of the Stipulation, the Protocol and its Appendices and the evidence in this case show us that the parties have, with the Revised Protocol, the Stipulation and the related documentation, done hard and thoughtful work for Wyoming and PacifiCorp's other retail jurisdictions, to achieve agreement on a new, positive and workable approach to interjurisdictional allocation. The agreement overall is not perfect in itself and wisely does not attempt to solve all of the potential problems which might arise. There are many tasks remaining for PacifiCorp and the states, but the agreement recognizes this and provides constructive mechanisms to solve problems and dispose fairly of issues as they arise in the future, i.e., the Standing Committee, the work groups and the carefully thought out general guidance of the Protocol. It has been very carefully drafted to allow for the concurrence of a number of parties which have not always been in agreement in the past. This careful draftsmanship also recognizes that the economies of the six states served by PacifiCorp and their energy needs are dynamic and complex, all of which is reflected in the ongoing Standing Committee and work groups provided for.
>
> (Appendix E, Record No. 7395, page 12)

**Section 3 – Unique Washington Procedural History**

PacifiCorp's last fully litigated rate case in Washington was in 1986, which was also the last time the Commission issued an order regarding inter-jurisdictional allocations. In its Second Supplemental Order in Cause No. U-86-02, the Commission stated:

> "As the company provides electric service to customers in six states including Washington, the company's joint facilities must be allocated to each of the states. During the pendency of this rate case, meetings were held among the staffs of the commissions of the states in which the company operates. The purpose of these meetings was to establish a new allocation method. As a result of these meetings, consensus was reached among company representatives and representatives of Washington, Oregon, California, Idaho, and Montana commission staffs regarding

a transition from the old method to the new method". (Cause No. U-86-02, Second Supplemental Order, page 33)

The order further described the load-based methodology for allocating joint facility costs among the six states then served by PacifiCorp.

PacifiCorp made no rate case filings in Washington between 1986 and 1999. However, as mentioned above, the PacifiCorp Task Force on Allocations was established in 1989 as a means for dealing with inter-jurisdictional allocation issues arising from the Pacific Power/Utah Power merger. Members of the Commission Staff were active participants in PITA during the 1990s.

Absent an explicit order from the Commission, the Company's routine filings since 1990 have been made based upon the methodologies developed by the PITA group. Most recently, from 1997-2003, the Modified Accord methodology has been used as the basis for allocating costs to Washington for annual basis reports and other routine filings.

In November 1999, PacifiCorp filed a general rate case with hearings on the Company's direct case held in April 2000. In June 2000, prior to the filing of intervenor direct testimony, an all-party settlement (Rate Plan Stipulation) was reached. The terms of the Stipulation were adopted by the Commission in its Third Supplemental Order in Docket No. UE-991832. The Stipulation approved a Rate Plan that commenced with the signing of the order and continued through December 2005. The Rate Plan Stipulation called for a series of rate increases over the period. Additionally, the Rate Plan Stipulation called for an examination of resource acquisitions since the Company's 1986 Washington general rate case to be completed by October 1, 2001, resulting in a "Joint Report" from the parties as to the prudence of the identified resources. The Joint Report was to be presented to the Commission in the Company's next general rate proceeding. The Rate Plan Stipulation and the order did not address inter-jurisdictional cost allocations.

The Joint Report was filed with the Commission on December 7, 2001. In the Joint Report, the participating parties found that the Company had demonstrated the prudence of the resource acquisitions on a system-wide basis. In the Joint Report, Commission Staff reserved its ability to evaluate the prudence of the resource acquisitions with respect to inclusion in Washington rates. These resources included in the Joint Report were Craig, Hayden, Cholla, James River, Foote Creek and Hermiston.

In April 2002, PacifiCorp sought accounting treatment to defer and subsequently recover costs related to the Western energy crisis of 2000-2001. In July 2003, in its Sixth Supplemental Order in Docket No. UE-020417, the Commission denied PacifiCorp's request for deferred accounting treatment but found that it was in the public interest for the Rate Plan to be modified to permit PacifiCorp to file a general rate case prior to December 31, 2005, the termination date of the Rate Plan.

In December 2003, PacifiCorp filed a general rate case to affect a $26.8 million rate increase. Based on the order from the previous rate case, the Joint Report regarding prudence of resource acquisitions was included as part of PacifiCorp's direct testimony as Exhibit No. ___(MTW-4). Inter-jurisdictional cost allocations in the filing were based on the Protocol methodology. This is

the same methodology the Company filed in Utah, Oregon, Wyoming and Idaho in separate allocation proceedings in September 2003, as described in Section 1 above. While the general rate case continued in Washington, discussions and exchanges continued with the other states resulting in the Revised Protocol. As described in Section 1 above, PacifiCorp filed the Revised Protocol in Idaho, Oregon, Utah and Wyoming in July 2004. This was approximately the same time that Staff and the other intervening parties in Washington filed their direct testimony in the general rate case. Given that the Washington proceeding was at the rebuttal stage at the time that Revised Protocol was filed in the other states, it was not procedurally feasible for the Commission to evaluate Revised Protocol in the context of the general rate case. Subsequently, in August 2004, the Company, Commission Staff and the Natural Resources Defense Council entered into a Settlement Agreement that called for a $15.5 million annual rate increase to be based on Protocol for purposes of setting rates in this proceeding only. Given that Staff's preferred inter-jurisdictional cost allocation methodology would not have required a determination regarding the prudence of the resources located in the Company's Eastern Control Area (West Valley, Gadsby, Craig, Hayden, Foote Creek and Cholla), the Settlement Agreement preserved Staff's ability to evaluate the prudence of these resources with respect to Washington rates. The Settlement Agreement included a finding that the prudence of the Western Control Area resources (Hermiston and James River) had been demonstrated.

The Commission's Order No. 06 in Docket No. UE-032065 covered a number of items including inter-jurisdictional cost allocations. The Order reviewed and accepted the Settlement Agreement among PacifiCorp, Commission Staff and Natural Resources Defense Council. It specifically recognized that the settling parties utilized different allocation methodologies in testimony, that Protocol offered the only common basis for review of the proposals, and that Protocol would be used for purposes of this proceeding only. (¶ 21) Finally, the Order recognized that parties will initiate discussions related to allocations and that, "[p]ending the conclusion of discussions, and without agreeing that a particular allocation methodology is 'sufficient or proper for use in any future proceedings before the Commission,' the settling parties agree that 'the Company will use the Revised Protocol as the basis for routine regulatory filings with the Commission.'" (¶ 22)

The Commission imposed the following conditions related to inter-jurisdictional cost allocations:

> (3) Our approval of the Settlement Agreement is conditioned by the following requirements:
>
> a) Immediately following commission orders in the pending proceedings concerning inter-jurisdictional cost allocation in Utah and Oregon – and no later than December 1, 2004 – PacifiCorp will initiate discussions in Washington aimed at development of an agreed methodology for inter-jurisdictional cost allocation to be used by PacifiCorp in this jurisdiction.
>
> b) On or before April 1, 2005, PacifiCorp will present a detailed status report to the Commission concerning inter-jurisdictional cost allocation, including recommendations for further proceedings in Washington.

c) By October 31, 2005, PacifiCorp will file, either in a general rate proceeding, or in an independent proceeding, a proposal to resolve inter-jurisdictional cost allocation in Washington. (¶ 95)

The treatment of resources added on the East side of the PacifiCorp system was not addressed by the Order. There were differing views expressed by the settling parties in their respective testimonies.

The following section explains the process and results of the discussions ordered above.

**Section 4 – Discussions since Order in Docket No. UE-032065**

Procedural Background:

Representatives from Commission Staff, ICNU, Public Counsel and PacifiCorp met initially on December 1, 2004, in the Commission's offices to discuss the Order and to form a plan for continued discussions about inter-jurisdictional allocations. In addition, each party explained the issues it would like to include in the discussions.

As a result of the initial meeting, PacifiCorp provided a packet of information to all parties. The packet included: a draft workplan, outlining a series of six meetings and two conference calls to be held, culminating in the filing of the "detailed status report to the Commission" on April 1, 2005; a summary of issues raised by the parties at the December 1 meeting; a draft agenda for the next meeting; and a number of background items related to MSP proceedings in other states.

A conference call was held on December 21, 2004, to review the workplan, issue summary and agenda for the next proposed meeting. The group agreed to the proposed workplan schedule, made minor modifications to the issue summary and meeting agenda, and acknowledged receipt of the background materials.

A subsequent set of materials was provided to the parties on January 3, 2005, in preparation for the January 11, 2005, meeting. These materials provided background details of the studies and analyses utilized in the broader MSP proceedings.

The parties met again on January 11, 2005, in the Commission's offices in Olympia. The discussion included background and context surrounding the Revised Protocol and associated Stipulations with each of the States, review of issues raised in MSP, and a discussion of alternative approaches to determination of PacifiCorp's Washington revenue requirement.

The next meeting of the parties was held on January 27, 2005, at the Commission's Offices in Olympia. A packet of discussion material was delivered on January 25. The focus of this meeting was to review the standards in Washington governing alternative forms of regulation, or AFOR, discuss standards for review, and review example analyses of Washington loads and resources and some dispatch examples from the Company's GRID model. At the conclusion of the discussions, Commission Staff and Public Counsel requested additional information and background about the "Hybrid Method" that had been explored during the MSP proceedings. It

was agreed that the next scheduled meeting time could be utilized to discuss the Hybrid Methodology.

The February 10, 2005, meeting focusing on the Hybrid Method was held in the PacifiCorp offices in Portland and included parties from Oregon, Utah and Idaho as well as Commission Staff, Public Counsel and ICNU. The broader set of parties provided background about the Hybrid Method as well as a perspective about the issues that require additional discussion. As noted above, the Oregon PUC's Order in the MSP Docket directed Oregon parties to work to develop a Hybrid allocation model to use as an additional comparator to Revised Protocol. The deadline for development of this comparator is December 1, 2005.[9] Therefore, this meeting included some discussion about how parties would like to proceed with continued development of the Hybrid Method. At the conclusion of the meeting, Commission Staff representatives indicated they would like to absorb some of the data from the meeting and provide an update on their position at the next meeting.

The parties met again on February 24, 2005, at the Commission's Offices in Olympia. The parties provided an update on their respective positions related to allocations, and the group reviewed a draft outline of the Status Report to be filed with the Commission. At the conclusion of this meeting, it was agreed that continued conversations should focus on reviewing this Status Report.

The scheduled March 10 meeting was cancelled as PacifiCorp was continuing work on the Status Report.

A draft of the Status Report was circulated to the parties for comment on March 21. A teleconference was held on March 24, 2005, to review comments on the Draft Status Report.

Issue Identification and Scoping:

The primary issues identified and discussed during the process included:

- Review of Revised Protocol and state stipulations
- Dynamics of load growth and cost shifts under different allocation methods
- Treatment of hydro resources and Mid-C Contracts
- New Resources, system integration and least cost planning
- Review of Hybrid Method from MSP and of future Hybrid discussions

Results of Discussions:

Parties engaged in candid discussions in a good faith effort to develop a mutually acceptable allocation method for Washington. A great deal of information was shared related to Revised Protocol and the analyses and discussions that occurred throughout the two years of MSP meetings. Various alternative allocation mechanisms were discussed. Commission Staff has concluded that it may be able to use the Revised Protocol methodology for allocation of Washington's share of PacifiCorp's administrative & general, distribution and transmission costs,

[9] OPUC, Order NO. 05-021, page 13

at least until a better method is developed. Specifically with regard to transmission costs, Staff remains uncertain how well the Revised Protocol will work in the future if regional network operations are altered significantly as a result Grid West or some other central operating organization. The treatment of PacifiCorp's power costs and resources on the East side of PacifiCorp's system remained an issue throughout the discussions. In the end, agreement was not reached.

**Section 5 – Recommendation for further proceedings in Washington**

As ordered in the Commission's Order No. 06, page 35,

> b) On or before April 1, 2005, PacifiCorp will present a detailed status report to the Commission concerning inter-jurisdictional cost allocation, including recommendations for further proceedings in Washington.

In accordance with this directive, PacifiCorp recommends the following further proceedings for addressing inter-jurisdictional cost allocations in Washington:

1. At the discretion of the Commission, offer to hold a public session with the Commissioners, parties to these discussions and other interested parties to provide the opportunity to clarify perspectives, comment on the Status Report, and respond to questions about allocations. This session could provide Commissioners with a greater understanding of the issues surrounding PacifiCorp allocations as well as a forum for balanced discussion of parties' perspectives.

2. Recognize the opportunity for Washington parties to participate in continued dialog about PacifiCorp inter-jurisdictional allocations via the Revised Protocol workgroups that have been established. Three primary workgroups are forming: a group focusing on the impact of load growth and potential cost shifts, a group focused on Seasonal Resources and a group focused on development of a Hybrid Method for reporting purposes.

3. PacifiCorp currently plans to file a general rate case in Washington in late Spring 2005, which will include a proposal to adopt Revised Protocol. This will fulfill the obligation imposed on the Company in the Order to file by October 31, 2005 "a proposal to resolve inter-jurisdictional cost allocation in Washington," either in a general rate proceeding or in an independent proceeding. (Order No. 06 at ¶ 95(c))

# APPENDIX A

# Appendix A

# Revised Protocol and Definitions

1 **I. Introduction**

2 This PacifiCorp Inter-Jurisdictional Cost Allocation Protocol is the result of
3 extensive discussions that have occurred among representatives of PacifiCorp,
4 Commission staff members and other interested parties from Utah, Oregon,
5 Wyoming, Idaho and Washington regarding issues arising from the Company's
6 status as a multi-jurisdictional utility.[1] These discussions were referred to as the
7 Multi-State Process, or MSP.

8 PacifiCorp commits that it will continue to plan and operate its generation
9 and transmission system on a six-State integrated basis in a manner that achieves a
10 least cost/least risk Resource portfolio for its customers.

11 The Protocol describes regulatory policies, which, if followed by all States on
12 a long-term basis, should afford PacifiCorp a reasonable opportunity to recover all of
13 its prudently incurred expenses and investments and earn its authorized rate of
14 return. The assignment of a particular expense or investment, or allocation of a share
15 of an expense or investment, to a State pursuant to the Protocol is not intended to,
16 and should not, prejudge the prudence of those costs. Nothing in the Protocol shall
17 abridge any State's right and/or obligation to establish fair, just and reasonable rates
18 based upon the law of that State and the record established in rate proceedings
19 conducted by that State. It is the intent that the terms of the Protocol be enduring.
20 Parties who have supported the ratification of the Protocol do so in the belief that it
21 will achieve a solution to MSP issues that is in the public interest. However, a party's
22 support of the Protocol is not intended in any manner to negate the necessary

[1] Key staff in California monitored the proceedings and received relevant documents.

flexibility of the regulatory process to deal with changed or unforeseen circumstances, and a party's support of the Protocol will not bind or be used against that party in the event that unforeseen or changed circumstances cause that party to conclude, in good faith, that the Protocol no longer produces results that are just, reasonable and in the public interest. Support of the Protocol shall not be deemed to constitute an acknowledgement by any party of the validity or invalidity of any particular method, theory or principle of regulation, cost recovery, cost of service or rate design and no party shall be deemed to have agreed that any particular method, theory or principle of regulation, cost recovery, cost of service or rate design employed in the Protocol is appropriate for resolving any other issues.

The Protocol describes how the costs and wholesale revenues associated with PacifiCorp's generation, transmission and distribution system will be assigned or allocated among its six State jurisdictions for purposes of establishing its retail rates.

Definitions of terms that are capitalized in the Protocol are set forth in Appendix A.

A table identifying the allocation factor to be applied to each component of PacifiCorp's revenue requirement calculation is included as Appendix B.

The algebraic derivation of each allocation factor is contained in Appendix C.

A description and numeric example of how Special Contracts and related discounts will be reflected in rates is set forth in Appendix D.

A listing of FERC accounts relied upon in the definition of "Annual Embedded Costs" is set forth in Appendix E.

Each State's allocated share of each Mid-Columbia Contract and the method for calculating the shares is set forth in Appendix F.

## II. Proposed Effective Date

The Protocol will be effective and apply to all PacifiCorp retail general rate proceedings initiated subsequent to June 1, 2004.

## III. Classification of Resource Costs

All Resource Fixed Costs, Wholesale Contracts and Short-term Purchases and Sales will be classified as 75 percent Demand-Related and 25 percent Energy-Related. All costs associated with Non-Firm Purchases and Sales will be classified as 100 Percent Energy-Related.

## IV. Allocation of Resource Costs and Wholesale Revenues

Resources will be assigned to one of four categories for inter-jurisdictional cost allocation purposes:

A. Seasonal Resources,

B. Regional Resources,

C. State Resources, or

D. System Resources.

There are three types of Seasonal Resources, one type of Regional Resource and three types of State Resources. The remainder are System Resources which constitute the substantial majority of PacifiCorp's Resources. Costs associated with each category and type of Resource will be allocated on the following basis:

### A. Seasonal Resources

Costs associated with the following three types of Seasonal Resources will be allocated as follows:

1. Simple-Cycle Combustion Turbines (SCCTs): All Fixed Costs associated with SCCTs will be allocated based upon the SSGCT (Seasonal System Generation Combustion Turbine)

Factor. All Variable Costs associated with SCCTs will be allocated based upon the SSECT (Seasonal System Energy Combustion Turbine) Factor.

2. Seasonal Contracts: All Costs associated with the Seasonal Contracts will be allocated based upon the SSGP (Seasonal System Generation Purchases) Factor.

3. Cholla IV/ APS: All Fixed Costs associated with the Cholla Unit 4 and the seasonal exchange provided for in the APS Contract will be allocated based upon the SSGCH (Seasonal System Generation Cholla) Factor. All Variable Costs associated with Cholla Unit 4 and the seasonal exchange provided for in the APS Contract will be allocated based upon the SSECH (Seasonal System Energy Cholla) Factor. Following the expiration of the APS Contract, Cholla Unit 4 will be allocated as a System Resource and no longer allocated as a Seasonal Resource.

The MSP Standing Committee will review Seasonal Resources criteria and allocation. Items to be considered include the seasonal patterns of Resource operation to determine seasonality, the treatment of associated off-system sales, the value of operating reserves provided from Seasonal Resources, criteria to define seasonal Exchange Contracts and methods for allocating the costs of seasonal exchange returns.

**B. Regional Resources**

Costs associated with Regional Resources will be assigned and allocated as follows:

1. Hydro-Endowment:

1 a. Owned Hydro Embedded Cost Differential

2 Adjustment. The Owned Hydro Embedded Cost Differential

3 Adjustment is calculated as the Annual Embedded Costs – Hydro-

4 Electric Resources, less the Annual Embedded Costs – All Other,

5 multiplied by the normalized MWh's of output from the Hydro-

6 Electric Resources used to set rates (Hydro less All Other). The

7 Owned Hydro Embedded Cost Differential Adjustment will be

8 allocated on the DGP factor and the inverse amount will be allocated

9 on the SG factor.

10 b. Mid-Columbia Contract Embedded Cost Differential

11 Adjustment: The Mid-Columbia Contract Embedded Cost Differential

12 Adjustment is calculated as the Annual Mid-Columbia Contracts

13 Costs, less the Annual Embedded Costs – All Other, multiplied by the

14 normalized MWh's of output from the Mid-Columbia Contracts

15 (Mid-C less All Other). The allocation of Mid-Columbia Contracts to

16 each State is established pursuant to Appendix F. The Mid-Columbia

17 Embedded Cost Differential Adjustment will be allocated on the MC

18 factor and the inverse amount will be allocated on the SG factor.

19 c. Unless otherwise recommended by the MSP Standing

20 Committee, as long as the Oregon parties that originally supported

21 ratification of the Protocol continue to support the use of the Protocol

22 for purposes of establishing the Company's Oregon revenue

23 requirement, PacifiCorp will not propose or advocate any material

24 change in the Protocol provisions related to Hydro-Electric

25 Resources, Mid-Columbia Contracts and Existing QF Contracts.

26 Provided, however, the foregoing provision shall not prevent the

27 Company from complying with any Commission order.

1 **C. State Resources**

2 Costs associated with the three types of State Resources will be
3 assigned as follows:

4 1. Demand-Side Management Programs: Costs associated with
5 Demand-Side Management Programs will be assigned on a
6 situs basis to the State in which the investment is made.
7 Benefits from these programs, in the form of reduced
8 consumption, will be reflected through time in the Load-Based
9 Dynamic Allocation Factors.

10 2. Portfolio Standards: Costs associated with Resources acquired
11 pursuant to a State Portfolio Standard, which exceed the costs
12 PacifiCorp would have otherwise incurred acquiring
13 Comparable Resources, will be assigned on a situs basis to the
14 State adopting the standard.

15 3. Qualifying Facilities (QF) Contracts:

16 a. Existing QF Contracts Embedded Cost Differential
17 Adjustment: The Existing QF Contracts Cost Differential
18 Adjustment is calculated as the Annual Existing QF
19 Contracts Costs for each State, less the Annual Embedded
20 Costs – All Other, multiplied by the normalized MWh's of
21 output from the respective State's Existing QF Contracts
22 (State QF less All Other). The Existing QF Contract
23 Embedded Cost Differential Adjustment will be allocated on
24 a situs basis and the inverse amount will be allocated on the
25 SG factor.

26 b. New QF Contracts: Costs associated with any New
27 QF Contract, which exceed the costs PacifiCorp would have

1 otherwise incurred acquiring Comparable Resources, will be
2 assigned on a situs basis to the State approving such contract.

3 **D. System Resources**

4 All Resources that are not Seasonal Resources, Regional Resources or
5 State Resources are System Resources. Generally, all Fixed Costs
6 associated with System Resources and all costs incurred under
7 Wholesale Contracts will be allocated based upon the SG Factor.
8 Generally, all Variable Costs associated with System Resources will
9 be allocated based upon the SE Factor. Revenues received by the
10 Company pursuant to Wholesale Contracts will be allocated based
11 upon the SG Factor. A complete description of the allocation factors
12 to be utilized is set forth in Appendix B.

13 **E. Load Growth**

14 In concert with the 2004 IRP cycle, the Company and parties will
15 analyze and quantify potential cost shifts related to faster-growing
16 States.[2] In addition, a multi-state workgroup will track key factors
17 including actual relative growth rates, forecast relative growth rates,
18 costs of new Resources compared to costs of existing Resources, and
19 other factors deemed relevant to this issue. No later than nine months
20 after filing the 2004 IRP, the Company, in consultation with the MSP
21 Standing Committee and other parties, will file a report with the
22 Commissions regarding this issue. Included in this report will be a
23 description of one or more options for a structural protection

[2] This issue will be monitored through studies that compute the costs allocated to each State for two cases: (a) with currently projected load growth together with a least-cost, least-risk mix of Resource additions to meet that growth and (b) with the fastest-growing State growing at the average growth projected for the remaining States, again with a least-cost, least-risk mix of Resource additions.

1 mechanism, detailed with sufficient specificity to allow timely
2 implementation in the event that the studies show a material and
3 sustained net harm to customers in any jurisdiction.
4
5 The MSP Standing Committee is charged with developing one or
6 more ameliorative mechanisms that could be implemented in a timely
7 manner in the event that the studies show a material and sustained net
8 harm to particular States from the implementation of the IRP. The
9 MSP Standing Committee should consider the impact of load growth
10 in light of all other relevant factors. Potential mechanisms to be
11 studied include tiered allocations, treatment of Seasonal Resources, a
12 structural separation of the Company, temporary assignment of the
13 costs of some new Resources to fast-growing States, and the inclusion
14 of measures of recent load growth in the computation of allocation
15 factors.
16
17 **V. Refunctionalization and Allocation of Transmission Costs and Revenues**
18 If the Company is required to refunctionalize assets that are currently
19 functionalized as "transmission" to "distribution", the cost responsibility for any
20 such refunctionalized assets will be assigned to the State where they are located. Any
21 refunctionalization will be implemented under the guidance of the MSP Standing
22 Committee.
23 Costs associated with transmission assets, and firm wheeling expenses and
24 revenues, will be classified as 75 percent Demand-Related, 25 percent Energy-
25 Related and allocated among the States based upon the SG (System Generation)
26 factor. Non-firm wheeling expenses and revenues will be allocated among the States
27 based upon the SE Factor.

## VI. Assignment of Distribution Costs

All distribution-related expenses and investment that can be directly assigned will be directly assigned to the state where they are located. Those costs that cannot be directly assigned will be allocated among States consistent with the factors set forth in Appendix B.

## VII. Allocation of Administrative and General Costs

Administrative and general costs, costs of General Plant and costs of Intangible Plant will be allocated among States consistent with the factors set forth in Appendix B.

## VIII. Allocation of Special Contracts

Revenues associated with Special Contracts will be included in State revenues and loads of Special Contract customers will be included in all Load-Based Dynamic Allocation Factors. Special Contracts may or may not include Customer Ancillary Service Contract attributes. In recognition that Special Contracts may take different forms, Appendix D provides a written description and numeric example of the regulatory treatment of Special Contracts and associated discounts.

## IX. Allocation of Gain or Loss from Sale of Resources or Transmission Assets

Any loss or gain from the sale of a Resource (other than a Freed-Up Resource) or a transmission asset will be allocated among States based upon the allocation factor used to allocate the Fixed Costs of the Resource or the transmission asset at the time of its sale. Each Commission will determine the appropriate

1 allocation of loss or gain allocated to that State as between State customers and
2 PacifiCorp shareholders.
3
4 **X. Implementation of Direct Access Programs**

5 **A. Allocation of Costs and Benefits of Freed-Up Resources**

6 1. Loads lost to Direct Access – Where the Company is required to
7 continue to plan for the load of Direct Access Customers, such
8 load will be included in Load-Based Dynamic Allocation Factors
9 for all Resources.
10 2. Loads of customers permanently choosing Direct Access or
11 permanently opting out of New Resources – Where the Company
12 is no longer required to plan for the load of customers who
13 permanently choose direct access or permanently opt out of New
14 Resources, such loads will be included in Load-Based Dynamic
15 Allocation Factors for all Existing Resources but will not be
16 included in Load-Based Dynamic Allocation Factors for New
17 Resources acquired after the election to permanently choose
18 Direct Access or opt out of New Resources. An effective date for
19 this process will be established at such time as customers
20 permanently choose Direct Access or opt out, and this process will
21 be implemented under the guidance of the MSP Standing
22 Committee.
23 3. In each State with Direct Access Customers, an additional step
24 will take place for ratemaking purposes to establish a value or cost
25 (which could include a transfer of Freed-Up Resources between
26 customer classes within a State) resulting from the departure of
27 the departing load; other States do not implement the second step.

1 **B. Freed-Up Resource Sale Approval**

2 Any proposed sale of a Freed-Up Resource for purposes of
3 calculating transition charges or credits will be subject to applicable
4 regulatory review and approval based upon a "no-harm" standard.
5 States implementing Direct Access Programs that involve the sale of
6 Freed-Up Resources will endeavor to propose a method for allocating
7 the gain or loss on a sale to Direct Access Customers in a manner that
8 satisfies the "no-harm" standard in respect to customers in the other
9 States. The parties agree that they will not advocate a sale of Freed-
10 Up Resources to be consummated if the proposed allocation of the
11 gain or loss from the sale would cause the Company to distribute
12 more than the total gain on a sale or recover less than the full amount
13 of the total loss on a sale.

14 **C. Allocation of Revenues and Costs from Direct Access Purchases**
15 **and Sales**

16 Revenues and costs from Direct Access Purchases and Sales will be
17 assigned situs to the State where the Direct Access Customers are
18 located and will not be included in Net Power Costs.

19

20 **XI. Loss or Increase in Load**

21 Any loss or increase in retail load occurring as a result of condemnation or
22 municipalization, sale or acquisition of new service territory which involves less than
23 five percent of system load, realignment of service territories, changes in economic
24 conditions or gain or loss of large customers will be reflected in changes in Load-
25 Based Dynamic Allocation Factors. The allocation of costs and benefits arising from
26 merger, sale and acquisition transactions proposed by the Company involving more

1 than five percent of system load will be dealt with on a case-by-case basis in the
2 course of Commission approval proceedings.
3
4 **XII. Commission Regulation of Resources**
5 PacifiCorp shall plan and acquire new Resources on a system-wide least cost,
6 least risk basis. Prudently incurred investments in Resources will be reflected in
7 rates consistent with the laws and regulations in each State.
8
9 **XIII. Sustainability of Protocol**
10 **A. Issues of Interpretation**
11 If questions of interpretation of the Protocol arise during rate proceedings
12 and/or audits of results of PacifiCorp's operations, parties will attempt to resolve
13 them with reference to the intent of the parties who have supported the ratification of
14 the Protocol.
15 **B. MSP Standing Committee**
16 1. An MSP Standing Committee will be organized consisting of one
17 member or delegate of each Commission. The chair of the MSP
18 Standing Committee will be elected each year by the members of the
19 Committee.
20 2. The MSP Standing Committee will appoint a Standing Neutral, at
21 the Company's expense, to facilitate discussions among States,
22 monitor issues and assist the MSP Standing Committee.
23 3. At least once during each calendar year, the Standing Neutral will
24 convene a meeting of the MSP Standing Committee and interested
25 parties from all States for the purpose of discussing and monitoring
26 emerging inter-jurisdictional issues facing the Company and its
27 customers. The meetings will be open to all interested parties.

1 4. The MSP Standing Committee will consider possible amendments
2 to the Protocol that would be equitable to PacifiCorp customers in all
3 States and to the Company. The MSP Standing Committee will have
4 discretion to determine how best to encourage consensual resolution
5 of issues arising under the Protocol. Its actions may include, but will
6 not be limited to: a) appointing a committee of interested parties to
7 study an issue and make recommendations, or b) retaining (at the
8 Company's expense) one or more disinterested parties to make
9 advisory findings on issues of fact arising under the Protocol.
10 5. The MSP Standing Committee has the immediate assignments of:
11 (a) developing one or more mechanisms that could be implemented in
12 a timely manner in the event that load growth studies show a material
13 and sustained net harm to particular States from the implementation
14 of the IRP; and (b) reviewing Seasonal Resources criteria and
15 allocation, including seasonal patterns of Resource operation to
16 determine seasonality, treatment of associated off-system sales, the
17 value of operating reserves provided from Seasonal Resources,
18 criteria to define seasonal Exchange Contracts and methods for
19 allocating the costs of seasonal exchange returns.
20 6. The work of the MSP Standing Committee will be supported by
21 sound technical analysis. A party supporting ratification of the
22 Protocol will work in good faith to address issues being considered by
23 the MSP Standing Committee.
24 **C. Protocol Amendments**
25 Proposed amendments to the Protocol will be submitted by PacifiCorp
26 to each Commission for ratification. The Protocol will only be
27 deemed to have been amended if each of the Commissions who have

previously ratified the Protocol ratifies the amendment. PacifiCorp will not seek Commission ratification of any amendment to the Protocol unless and until it has provided interested parties with at least six months advance notice of its intent to do so and endeavored to obtain consensus regarding its proposed amendment. A party's initial support or acceptance of the Protocol will not bind or be used against that party in the event that unforeseen or changed circumstances cause that party to conclude that the Protocol no longer produces just and reasonable results. Prior to departing from the terms of the Protocol, consistent with their legal obligations, Commissions and parties will endeavor to cause their concerns to be presented at meetings of the MSP Standing Committee and interested parties from all States in an attempt to achieve consensus on a proposed resolution of those concerns.

**D. Interdependency among Commission Approvals**

The Protocol has been developed by the parties as an integrated, inter-dependent, organic whole. Therefore, final ratification of the Protocol by any of the Commissions of Oregon, Utah, Wyoming and Idaho, is expressly conditioned upon similar ratification of the Protocol by the other mentioned Commissions, without any deletion or alteration of a material term, or the addition of other material terms or conditions. Upon any rejection of the Protocol, or any material deletion, alteration, or addition to its terms, by any one or more of the four Commissions, the Commissions who have previously conditionally adopted the Protocol shall initiate proceedings to determine whether they should reaffirm their prior ratification of the Protocol, notwithstanding the action of the other Commission or Commissions.

1 The Protocol shall only be in effect for a State upon final ratification
2 by its Commission. The Company will continue to bear the risk of
3 inconsistent allocation methods among the States.

## Revised Protocol - Appendix A

## Defined Terms

For purposes of this Protocol, the following terms will have the following meanings:

**"Annual Embedded Costs – All Other"** means PacifiCorp's total normalized annual production costs expressed in dollars per MWh (not including costs associated with Hydro-Electric Resources, Mid-Columbia Contracts and Existing QF Contracts) as recorded in the FERC Accounts listed in Appendix E to the Protocol.

**"Annual Embedded Costs – Hydro-Electric Resources"** means PacifiCorp's total normalized annual production costs, expressed in dollars per MWh, associated with Hydro-Electric Resources as recorded in the FERC Accounts listed in Appendix E to the Protocol.

**"Annual Mid-Columbia Contract Costs"** means annual net costs incurred by PacifiCorp under the Mid-Columbia Contracts, expressed in dollars per MWh.

**"APS Contract"** means the Long-Term Power Transactions Agreement between PacifiCorp and Arizona Public Service Company dated September 21, 1990, as amended.

**"Coincident Peak"** means the hour each month that the combined demand of all PacifiCorp retail customers is greatest. In States using an historic test period, Coincident Peak is based upon actual, metered load data. In States using future test periods, Coincident Peak is based upon forecasted loads.

**"Company"** means PacifiCorp.

**"Commission"** means a utility regulatory commission in a State.

**"Comparable Resource"** means Resources with similar capacity factors, start-up costs, and other output and operating characteristics.

**"Customer Ancillary Service Contracts"** means contracts between the Company and a retail customer pursuant to which the Company pays the customer for the right to curtail service so as to lower the costs of operating the Company's system.

**"Demand-Related Costs"** means capital and other Fixed Costs incurred by the Company in order to be prepared to meet the maximum demand imposed upon its system.

**"Demand-Side Management Programs"** means programs intended to improve the efficiency of electricity use by PacifiCorp's retail customers.

**"Direct Access Customers"** means retail electricity consumers located in PacifiCorp's service territory that either: a) purchase electricity directly from a supplier other than PacifiCorp pursuant to a Direct Access Program or b) elect to have all or a portion of the electricity they purchase from PacifiCorp priced based upon market prices rather than the Company's traditional cost-of-service rate. If a State implements a Direct Access Program pursuant to which Freed-Up Resources are transferred between customer classes, such transfers shall be considered Direct Access Purchases and Sales.

**"Direct Access Program"** means a law or regulation that permits retail consumers located in PacifiCorp's service territory to purchase electricity directly from a supplier other than PacifiCorp.

**"Direct Access Purchases and Sales"** means Wholesale Contracts and Short-Term Purchases and Sales entered into by PacifiCorp either to supply customers who have become Direct Access Customers or to dispose of Freed-Up Resources.

**"Energy-Related Costs"** means costs, such as fuel costs that vary with the amount of energy delivered by the Company to its customers during any hour plus any portion of Fixed Costs that have been deemed to have been incurred by the Company in order to meet its energy requirements.

**"Existing QF Contracts"** means Qualifying Facility Contracts entered into prior to the effective date of this Protocol, but not such contracts renewed or extended subsequent to the effective date of this Protocol.

**"Existing Resources"** means Resources whose costs were committed to prior to Direct Access Customers making an election to permanently forego being served by the Company at a cost-of-service rate.

**"Exchange Contracts"** means Wholesale Contracts pursuant to which PacifiCorp accepts delivery of power at one place and/or point in time and delivers power at a different place and/or point in time.

**"FERC"** means the Federal Energy Regulatory Commission.

**"Fixed Costs"** means costs incurred by the Company that do not vary with the amount of energy delivered by the Company to its customers during any hour.

**"Freed-Up Resources"** means Resources made available to the Company as a result of its customers becoming Direct Access Customers.

**"General Plant"** means capital investment included in FERC accounts 389 through 399.

**"Grant County"** means Public Utility District No. 2 of Grant County, Washington

**"Hydro-Electric Resources"** means Company-owned hydro-electric plants located in Oregon, Washington or California.

**"Intangible Plant"** means capital investment included in FERC accounts 301 through 303.

**"Load-Based Dynamic Allocation Factor"** means an allocation factor that is calculated using States' monthly energy usage and/or States' contribution to monthly system Coincident Peak.

**"Mid-Columbia Contracts"** means the Power Sales Contract with Grant County dated May 22, 1956; the Power Sales Contract with Grant County dated June 22, 1959;the Priest Rapids Project Product Sales Contract with Grant County dated December 31, 2001; the Additional Products Sales Agreement with Grant County dated December 31, 2001; the Priest Rapids Project Reasonable Portion Power Sales Contract with Grant County dated December 31, 2001; the Power Sales Contract with Douglas County PUD dated September 18, 1963; the Power Sales Contract with Chelan County PUD dated November 14, 1957 and all successor contracts thereto.

**"Net Power Costs"** means PacifiCorp's fuel and wheeling expenses and costs and revenues associated with Wholesale Contracts, Seasonal Contracts, Short-Term Purchases and Sales and Non-Firm Purchases and Sales.

**"New QF Contracts"** means Qualifying Facility Contracts that are not Existing QF Contracts.

**"New Resources"** means Resources that are not Existing Resources as established pursuant to Paragraph XA2 of the Protocol.

**"Non-Firm Purchases and Sales"** means transactions at wholesale that are not Wholesale Contracts, Seasonal Contracts, Short-Term Purchases and Sales or Direct Access Purchases and Sales.

**"Portfolio Standard"** means a State law or regulation that requires PacifiCorp to acquire: (a) a particular type of Resource, (b) a particular quantity of Resources, (c) Resources in a prescribed manner or (d) Resources located in a particular geographic area.

**"Protocol"** means this PacifiCorp Inter-Jurisdictional Cost Allocation Protocol.

**"Qualifying Facility Contracts"** means contracts to purchase the output of small power production or cogeneration facilities developed under the Public Utility Regulatory Policies Act of 1978 (PURPA) and related State laws and regulations.

**"Resources"** means Company-owned and leased generating plants and mines, Wholesale Contracts, Seasonal Contracts, Short-Term Purchases and Sales and Non-firm Purchases and Sales.

**"Seasonal Contract"** means a Wholesale Contract pursuant to which the Company acquires power for five or less months during more than one year.

**"Seasonal Resource"** means: (a) a SCCT owned or leased by the Company, (b) any Seasonal Contract or c) Cholla Unit 4.

**"Short-Term Purchases and Sales"** means physical or financial contracts pursuant to which PacifiCorp purchases, sells or exchanges firm power at wholesale and Customer Ancillary Service Contracts that are less than one year in duration.

**"Simple-Cycle Combustion Turbines" or "SCCTs"** means simple-cycle combustion turbine generating units.

**"Special Contract"** means a contract entered between PacifiCorp's and one of its retail customers with prices, term and conditions different from otherwise-applicable tariff rates. Special Contracts may provide for a discount to reflect Customer Ancillary Services Contract attributes.

**"Special Contract Ancillary Service Discounts"** means discounts from otherwise applicable rates provided for in Special Contracts.

**"Standing Neutral"** means an independent party, with experience in electric utility ratemaking, retained by the MSP Standing Committee to facilitate discussions among States, monitor issues and assist the MSP Standing Committee as required.

**"State Resources"** means Resources whose costs are assigned to a single State to accommodate State-specific policy preferences.

**"System Resources"** means Resources that are not Seasonal Resources, Regional Resources, State Resources or Direct Access Purchases and Sales and whose associated costs and revenues are allocated among all States on a dynamic basis.

**"State"** means Utah, Oregon, Wyoming, Idaho, Washington or California.

**"Variable Costs"** means costs incurred by the Company that vary with the amount of energy delivered by the Company to its customers during any hour.

**"Wholesale Contracts"** means physical or financial contracts pursuant to which PacifiCorp purchases, sells or exchanges firm power at wholesale and Customer Ancillary Service Contracts that have a term of one year or longer.

# APPENDIX B

# Appendix B

# Idaho PUC, Order No.29708

Office of the Secretary
Service Date
February 28, 2005

# BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

| | | |
|---|---|---|
| IN THE MATTER OF THE INVESTIGATION OF INTER-JURISDICTIONAL ISSUES AFFECTING PACIFICORP DBA UTAH POWER & LIGHT COMPANY | ) | **CASE NO. PAC-E-02-3** |
| | ) | **ORDER NO. 29708** |

On March 5, 2002, PacifiCorp dba Utah Power & Light Company (PacifiCorp; Company) petitioned the Idaho Public Utilities Commission (Commission) to initiate an investigation of inter-jurisdictional issues affecting the Company as a consequence of its status as a multi-jurisdictional utility subject to the jurisdiction of six state regulatory Commissions.

As a result of different cost allocation methods adopted for ratemaking purposes in the Company's various states of operation, PacifiCorp maintains that it is no longer being provided the opportunity to fully recover its costs. By Order No. 28978, the Commission established a docket for investigation, established an intervention deadline and approved a joint Multi-State Process (MSP) for analyzing PacifiCorp inter-jurisdictional issues (*Idaho Code* § 61-505) and established initial MSP scheduling (*Idaho Code* § 61-501).

On September 30, 2003, PacifiCorp filed a Motion, direct testimony and exhibits seeking Commission ratification of an Inter-jurisdictional Cost Allocation Method – Protocol (Protocol). On July 14, 2004, PacifiCorp filed a Revised Protocol and Supplemental Testimony. On November 4, 2004, PacifiCorp and Commission Staff filed a Joint Motion requesting acceptance and Commission approval of a Stipulation and Agreement (Stipulation) negotiated by PacifiCorp, Staff, Monsanto Company, and AARP as full settlement of the inter-jurisdictional cost allocation issues affecting PacifiCorp. Reference IDAPA 31.01.01.272-276. The Commission in this Order approves the Revised Protocol and the negotiated terms of the settlement.

**Inter-Jurisdictional Cost Allocation Method – Revised Protocol**

The Revised Protocol (PacifiCorp Supplemental Testimony, Exhibits 19-25) is the culmination of an extended series of joint multi-state process (MSP) meetings, technical workshops and telephone conferences that analyzed PacifiCorp's inter-jurisdictional cost allocation issues. MSP meetings were attended by representatives of some 18 entities from the

states of Utah, Oregon, Wyoming, Washington and Idaho. Participants included representatives of state commission policy staffs, advocacy staffs, individual customers and consumer groups. The Company's filing in Idaho is identical to contemporaneous filings made with the regulatory commissions in Utah, Oregon and Wyoming. In Washington, PacifiCorp filed the Revised Protocol as part of the Company's rate case in that state.

The Revised Protocol filed by PacifiCorp is the Company's "MSP solution." The Revised Protocol describes how PacifiCorp's generation, transmission and distribution costs will be allocated or assigned to PacifiCorp's six retail jurisdictions. The Revised Protocol also describes mechanisms for ensuring continued dialogue among interested parties regarding PacifiCorp inter-jurisdictional cost allocation issues and procedures, and for resolving concerns and inconsistent policies that may arise among the Company's state jurisdictions in the future.

PacifiCorp anticipates that ratification of the Revised Protocol will resolve current differences among PacifiCorp's retail jurisdictions concerning needed new resources and cost allocation methods. PacifiCorp contends that ratification will provide the Company assurance that it will have a reasonable opportunity to recover prudent investments in new generation and transmission facilities and required improvements to existing facilities. This, in turn, it states, will ensure that the Company's customers continue to receive safe and reliable electricity service at reasonable prices.

Key elements of the Revised Protocol are: a hydro endowment reflecting the cost difference of hydro-electric resources and certain contracts attributed to the former Pacific Power and Light states; an assignment recognizing the cost difference of state-specific qualifying facilities; and an allocation for specific seasonal resources. All other resources will continue to be allocated based on the peak and energy requirements of each state on the integrated system.

In addition, the Revised Protocol addresses treatment of a number of items and potential situations including: (i) refunctionalization and allocation of transmission costs and revenues, (ii) treatment of the costs of special contracts, (iii) means of accounting for and accommodating state specific policies, such as direct access, and (iv) the process and infrastructure for resolving issues in order to further secure the sustainability of the allocation methodology in the future.

The Revised Protocol method is essentially a dynamic allocation method incorporating the majority of components of a Rolled-In methodology (all systemwide

allocations) with a few key exceptions: treatment of seasonal resources, treatment of Company-owned hydro resources, treatment of the Mid-Columbia hydro contracts, and treatment of Qualifying Facilities (QFs).

The classification of all resource fixed costs, wholesale contracts and short-term purchases and sales will continue to be classified as 75% demand-related and 25% energy-related. All non-firm purchases and sales will be classified as 100% energy-related.

The allocations of resources consist of four categories: (1) seasonal resources, (2) regional resources, (3) state resources and (4) system resources. Seasonal resources are defined as single cycle combustion turbines (SCCTs), seasonal contracts and the Cholla/APS exchange. The cost of seasonal resources primarily used during high load peak seasons will be more heavily allocated to the jurisdictions using the resource in those peak months by matching the seasonal generation patterns to the seasonal load patterns in each state.

Regional resources consist of Company-owned hydro and a portion of the Mid-Columbia contracts. These costs will be assigned and allocated using an embedded cost differential adjustment calculated as the difference between the cost per kilowatt-hour on hydroelectric resources and the cost per kilowatt-hour for other resources. The Hydro Endowment was designed to assign the majority of Company-owned hydro resources, originally owned primarily by the former Pacific Power and Light (PP&L) territory (i.e., Oregon, Washington, California and part of Wyoming), to those jurisdictions. The embedded cost differential adjustment adopted by the Revised Protocol is based upon full (i.e., fixed plus variable) costs, not just the fuel costs. This is different from the Modified Accord allocation approach (the previous consensus method adopted by various states) that utilized a fuel adjustment mechanism to allocate hydro resources to the PP&L states. Also, unlike Modified Accord, this "endowment" has no predetermined time frame and will continue beyond the time when hydro re-licensing costs exceed the fuel cost savings. For Mid-Columbia contracts, the embedded cost differential is allocated system-wide using factors that provide a larger share to Oregon and Washington than would otherwise be provided under system allocation factors.

State resources currently include demand side management (DSM) programs, state portfolio standards, and PURPA qualifying facility (QF) contracts. DSM costs will be assigned on a situs basis to the state where the investment is made. Benefits from these programs will accrue to the respective states in the form of reduced consumption and load based dynamic

allocation factors. Costs associated with resources acquired under a state portfolio standard that exceed the costs that otherwise would have been incurred by PacifiCorp will be assigned to the state adopting the standard. Existing QF contracts will be assigned using the embedded cost differential adjustment. The differential is the annual cost of existing QF contracts for each state less the annual embedded costs. The differential will be assigned on a situs basis with the remainder allocated on the system generation (SG) factor. New QF contracts will be treated like state portfolio standard resources with any excess costs assigned to the respective states.

System resources are all the remaining resources not categorized as seasonal, regional or state resources. The majority of all resources are system resources. Generally, all fixed costs associated with system resources will be allocated on the SG factor, variable costs will be allocated on the system energy (SE) factor, and any wholesale revenues will be allocated on the SG factor.

Costs associated with transmission assets, firm wheeling expenses and revenues will be classified as 75% demand-related and 25% energy-related. They will be allocated among the states based on the SE factor. This allocation is consistent with Rolled-In where all plant is allocated system wide but differs from Modified Accord where pre-merger plant is assigned divisionally and post-merger plant is allocated system wide.

Distribution related expenses and investments that can be directly assigned would be assigned to the state where they are located. Costs that cannot be directly assigned will be allocated among the states. The majority of all distribution costs will be directly assigned.

Special Contracts will be treated differently from the prior allocation method for Monsanto in Idaho where Monsanto was accounted for on a system basis. Appendix D of the Revised Protocol discusses Special Contracts in greater detail. Revenues associated with the Special Contract will be included in the state revenues and loads of the Special Contract customers and will be included in all load-based dynamic allocation factors to allocate costs. Any rate discounts allowed for Special Contract customer-provided ancillary services, including reserves provided by interruptibility, would be allocated to the system to match the system benefits received from the ancillary services.

**Stipulation and Agreement – Proposed Settlement**

On November 4, 2004, PacifiCorp and Commission Staff filed a Joint Motion requesting acceptance and Commission approval of a Stipulation and Agreement (Stipulation)

negotiated by PacifiCorp, Staff, Monsanto Company, and AARP as full settlement of the inter-jurisdictional cost allocation issues affecting PacifiCorp as a consequence of its status as a multi-jurisdictional utility subject to the jurisdiction of six state regulatory Commissions. The stipulating parties request Commission approval of the inter-jurisdictional cost allocation methods embodied in the Revised Protocol filed with the Commission on July 14, 2004, as a means of achieving consistent allocation methods in the jurisdictional states served by PacifiCorp.

Public workshops for PacifiCorp customers in eastern Idaho were held in Preston on October 4, 2004 and in Rexburg on October 5, 2004. At the workshops, Commission Staff presented a summary of the Company's Petition, MSP, Revised Protocol and discussed its participation in settlement negotiations.

Included in the Stipulation are rate mitigation measures intended to apply to calculations of the Company's Idaho revenue requirement for any PacifiCorp rate filing made through March 31, 2009. In the near term through 2008, the Revised Protocol methodology results in a 2% higher revenue requirement to Idaho than under Rolled-In, an alternate allocation methodology that Idaho Staff would favor in the absence of agreement to the Revised Protocol. The results to Idaho beyond 2008 are more favorable because future hydro relicensing costs will be assigned directly to the Pacific Power & Light states, primarily Washington and Oregon. In addition, Idaho customers will continue to benefit from the efficiencies of PacifiCorp's integrated six state system while PacifiCorp will be provided greater certainty for a recovery of its prudently incurred costs.

The stipulating parties agree that the Stipulation and rate mitigation mechanism is in the public interest and that all of the terms of the Stipulation are fair, just and reasonable. The parties recommend that the Commission approve use in Idaho by PacifiCorp of the Revised Protocol methodology and rate mitigation mechanism for purposes of inter-jurisdictional allocation of the Company's costs and Idaho results of operations in future regulatory proceedings.

On November 9, 2004, the Commission issued Notices of Stipulation and Agreement, Joint Motion for Acceptance of Settlement and Modified Procedure. The deadline for filing written comments for stipulating parties and parties of record was November 23, 2004. The

deadline for filing written comments or protests by the public was December 6, 2004. PacifiCorp and Commission Staff were the only parties to file comments.

**PacifiCorp Comments**

PacifiCorp urges the Commission to accept the Stipulation and ratify the Revised Protocol. The Company contends that the Stipulation is in the public interest and if ratified by all of PacifiCorp's State Commissions will establish uniform policies in respect to the following critical issues:

1. How the costs of new resources will be allocated among states;
2. How the costs of resources built to serve seasonal load will be allocated;
3. How the costs of QFs will be assigned;
4. How the consequences of direct access will be isolated to the state adopting the program;
5. How the costs and benefits of special contracts with large industrial customers will be allocated among states; and
6. How the Northwest states' claim to a special entitlement to hydroelectric resources will be recognized.

The Revised Protocol, PacifiCorp states, provides for the establishment of an "MSP Standing Committee" consisting of State commissioners or their delegates. The MSP Standing Committee will oversee continuing analytical efforts associated with inter-jurisdictional issues (such as the consequences of disproportionate load growth among States) and serve as a forum for the parties to discuss and hopefully resolve any emerging inter-jurisdictional issues. Meetings of the MSP Standing Committee, the Company states, are to be open to all interested parties. The Company expects that those meetings will assist in maintaining an ongoing consensus among the states in which it operates regarding inter-jurisdictional issues, thereby preserving the accomplishments of the MSP.

Addressing the observed consequence of the Revised Protocol that the Idaho revenue requirement is higher in the early years of its operation compared to the use of other allocation methods, the Company notes that the filed Stipulation includes a provision mitigating the expected near-term Idaho customer impacts. To that end, the Stipulation provides that until March 31, 2009, the Company's use of the Revised Protocol will not result in rates in Idaho that exceed 101.67 percent of the amount that would result from use of the Rolled-In method. As a result of the Stipulation, PacifiCorp contends that Idaho customers obtain the benefits arising

from the resolution of MSP issues, while being insulated from any major near-term rate impacts associated with it.

As an additional reason for approving the Stipulation, PacifiCorp notes that it was recognized by Idaho parties that circumstances might change such that it might not be sensible for them to continue to support the Revised Protocol. Accordingly, the Company notes that the Stipulation provides that if the results of using the Revised Protocol materially depart from PacifiCorp's current projections, or otherwise produce results that are not just, reasonable, and in the public interest, any party may propose amendments to the Revised Protocol or propose that the Commission depart from its terms.

**Staff Comments**

*Revised Protocol Analysis*

Commission Staff recommends adoption of the Revised Protocol allocation methodology and acceptance of the Stipulation terms as filed. Acceptance and adoption of both, Staff contends, resolves the inter-jurisdictional allocation issues. Such resolution, it states, is important to PacifiCorp and its customers. Customers will benefit by eliminating or at least reducing the potential for negative decision-making by the Company or negative impacts on PacifiCorp. Potential impacts of inconsistent allocation methodologies adopted in various states, Staff contends, could have included:

- Loss of PacifiCorp's financial integrity with associated cost of capital impacts;
- Loss of efficiencies or reliability if investments and operation and maintenance expenditures are reduced;
- Limitation of individual state's ability to implement policy goals;
- Potential loss of states' jurisdiction to Federal Energy Regulatory Commission (FERC) or the Securities Exchange Commission (SEC) for inter-jurisdictional allocation decisions;
- Potential reluctance to make generation plant capital investments but to instead rely on the spot market for power purchases;
- Proposed changes to PacifiCorp's structure that may have caused costs to be higher than they otherwise would have been;
- Ability for PacifiCorp, state regulators and parties in each state to focus on other important issues including but not limited to transmission issues, resource adequacy and service quality.

An issue that could be heard in a rate case under the Revised Protocol methodology, Staff notes, is the potential cost shifts to Idaho customers other than Monsanto when Monsanto rates are fixed during the contract period. If the cost studies utilized for any rate case and Monsanto's contract negotiations are the same, there will be no cost shift concerns. If the cost studies are not the same, any shortfall that would ordinarily be allocated to Monsanto but left uncovered by contract could become an issue. This shortfall due to the timing difference could be absorbed by PacifiCorp or requested for recovery from other customers in a subsequent rate case.

Any proposed amendments to the Revised Protocol, Staff notes, will be evaluated by the MSP Standing Committee and presented to the State Commissions for ratification of any proposed changes. If concerns and proposed amendments to the Revised Protocol cannot receive consensus with resolution of the concerns, the matter may be presented to the various Commissions. The MSP Standing Committee is not a decision making body. It will focus on fact finding and issue identification with recommendations and results to be made available for state Commissioners to make any necessary decisions. The first course of action for the Standing Committee will be to form workgroups that will further evaluate the impacts of Seasonal classifications and other load growth issues to verify that costs from growing loads are appropriately charged to the growing state(s).

Final ratification of the Revised Protocol is conditioned upon ratification by all states without material change. In the event of change, the Commissions who have previously conditionally adopted the Revised Protocol can initiate proceedings to determine whether the prior ratification will be reaffirmed. Stipulations have been filed in all states (except California) accepting the use of the Revised Protocol as the allocation methodology for accounting purposes and for the results of operations.

*Stipulation Analysis*

The Stipulation negotiated and signed by PacifiCorp, Commission Staff, Monsanto and AARP recommends adoption of the Revised Protocol in Idaho. The Stipulation also addresses concerns specific to Idaho and establishes rate mitigation measures to protect Idaho customers from drastic rate impacts from the implementation of the Revised Protocol.

The Stipulation supports use of the Revised Protocol in the calculation of revenue requirement in all future PacifiCorp rate filings. To mitigate the rate impacts, the parties have

agreed to support implementation of the Revised Protocol now with a cap of 1.67% to be applied to revenue requirement calculations for filings through March 31, 2009. The rate mitigation cap is calculated as the lesser of PacifiCorp's Idaho revenue requirement calculated under the Rolled-In allocation method multiplied by 101.67% or the Idaho revenue requirement resulting from the Revised Protocol allocation methodology. Absent the cap, rate increases could be greater in various years where Revised Protocol has more costs allocated to Idaho than under the Rolled-In or Modified Accord allocation methods. The cap level of 1.67% allows Idaho to adopt the Revised Protocol, reflect the impact in the next rate case at 1.67% above Rolled-In and see no further percentage increases due to the change in allocation methodology.

Reporting requirements have been established to allow Idaho parties to evaluate the ongoing reasonableness of the Revised Protocol allocation methodology. For 10 years following the Idaho Commission's ratification of the Revised Protocol: a) the Company's general rate case filings with the Idaho Commission shall include calculations of the Company's Idaho revenue requirement under both the Revised Protocol and the Rolled-In methods, and b) the Company shall file annual results of operations with the Idaho Commission which shall include calculations of the Company's Idaho allocated results of operations under both the Revised Protocol and the Rolled-In methods. All such submittals shall include and adequately explain all adjustments, assumptions, work papers and spreadsheet models used by the Company in making such calculations. The Company agrees to notify parties to this Stipulation in a timely manner of such submittals and will provide a copy of such submittals to the Stipulation parties upon request.

## COMMISSION FINDINGS

The Commission has reviewed the filings of record including the supplemental testimony of PacifiCorp witnesses, the Revised Protocol, the submitted Stipulation and the related comments and recommendations of PacifiCorp and Commission Staff. The Commission continues to find it reasonable to process the Stipulation and Agreement and Joint Motion for Acceptance of Settlement pursuant to Modified Procedure, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204.

The Revised Protocol is the allocation method proposed to allocate and assign generation, transmission and distribution costs to PacifiCorp's six retail state jurisdictions. PacifiCorp will continue to plan and operate its system on a six-state integrated basis to achieve a

least cost, least risk resource portfolio for its customers. The Revised Protocol does not prejudge issues of prudence, rate spread, rate design or cost recovery. Each state Commission continues to establish fair, just and reasonable rates.

The Commission recognizes the years of work the Revised Protocol represents and thanks the parties to the Stipulation for their effort. The Commission notes that sooner or later a merged company should be treated as one integrated company and not six separate jurisdictional entities. We note of significance that the Company dispatches resources on a company or system-wide basis. This method of resource utilization, we believe, seemingly argues for a Rolled-In approach as to allocation of costs. Recognizing, however, that there are some perceived inequities of this approach on the west side of the Company's system, we find the Revised Protocol methodology to be a reasonable and acceptable methodology. Our continued acceptance of the Revised Protocol for ratemaking purposes, of course, assumes no significant departure from Revised Protocol by other states in their future proceedings.

## CONCLUSIONS OF LAW

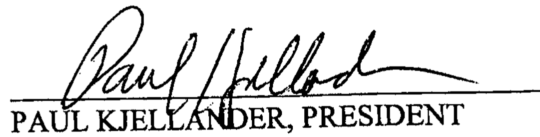
The Commission has jurisdiction over PacifiCorp dba Utah Power & Light Company, an electric utility, and the issues presented in Case No. PAC-E-02-3 pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

## ORDER

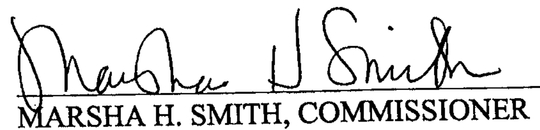
In consideration of the foregoing and as more particularly described and qualified above, IT IS HEREBY ORDERED and the Commission does hereby approve the Revised Protocol Inter-Jurisdictional Cost Allocation methodology for allocation of costs in Idaho rate cases, subject to the terms of the filed Stipulation and Agreement.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

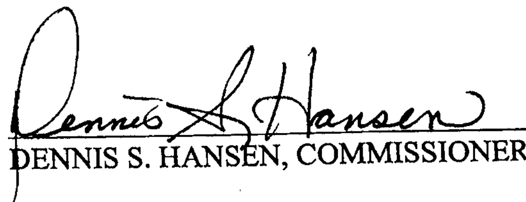
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28th day of February 2005.



PAUL KJELLANDER, PRESIDENT

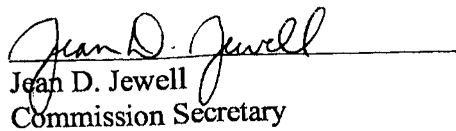


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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# APPENDIX C

# Appendix C

# Oregon PUC, Order No. 05-021

ENTERED JAN 12 2005

**This is an electronic copy. Format and font may vary from the official version. Attachments may not appear. Pages 8-30 of Attachment A are not electronically available.**

# BEFORE THE PUBLIC UTILITY COMMISSION

# OF OREGON

UM 1050

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| PACIFICORP | ) | ORDER |
| | ) | |
| Request to Initiate an Investigation of Multi-Jurisdictional Issues and Approve an Inter-Jurisdictional Cost Allocation Protocol. | ) ) ) | |

DISPOSITION: STIPULATION ADOPTED; REVISED PROTOCOL RATIFIED

**Summary**

In this order, we ratify the *Revised PacifiCorp Inter-Jurisdictional Cost Allocation Protocol* (Revised Protocol) for use in future rate cases to determine how costs and wholesale revenues associated with PacifiCorp's generation, transmission, and distribution systems will be allocated among its six-state service territory. This new allocation methodology meets the goals we established in March 2002, and is projected to reduce PacifiCorp's Oregon revenue requirement by $45.5 million. Furthermore, to assist our determination of whether the Revised Protocol remains an equitable allocation methodology, we direct PacifiCorp and other parties to more fully develop an alternative allocation methodology, known as the Hybrid Method, for use as a comparator and as a possible means to eliminate cost shifting among PacifiCorp customers in different states.

**Background**

On March 5, 2002, PacifiCorp filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 756.500(5).[1] PacifiCorp asked the Commission to open an investigation into numerous issues regarding PacifiCorp's multi-jurisdictional status, and to endorse a multi-state process for consideration of these issues.

On March 21, 2002, the Commission considered the matter at its regular public meeting and agreed to open an investigation. The Commission established the following goals and requirements for the multi-state process (MSP):

---

[1] This section reads as follows:

Notwithstanding subsection (1) of this section, any public utility or telecommunications utility may make complaint as to any matter affecting its own rates or service with like effect as though made by any other person, by filing an application, petition or complaint with the commission.

1. Determine an allocation methodology that would allow PacifiCorp an opportunity to recover its prudently incurred costs associated with its investment in generation resources;
2. Insure that Oregon's share of PacifiCorp's costs is equitable in relation to other states; and
3. Meet the public interest standard in Oregon.

*See,* Order No. 02-193.

Over the course of the next two years, various persons representing numerous organizations in the states of Oregon, Utah, Idaho, Washington, and Wyoming met to discuss issues about an allocation methodology for PacifiCorp. A facilitator, Mr. Robert Hanfling, met with the various organizations, and assisted them with information gathering and group discussions. The Commission Staff (Staff), Industrial Customers of Northwest Utilities (ICNU), and Citizens' Utility Board of Oregon (CUB) took the lead in these multi-state work sessions.[2] In addition to the multi-state work sessions, workshops were held with this Commission on June 26, 2002; February 17, 2004; March 31, 2004; and June 16, 2004.

Parties filed at least two rounds of testimony and exhibits. On July 21, 2004, PacifiCorp notified the Commission that Staff, CUB, and PacifiCorp (Joint Parties), but not ICNU, had reached agreement on all issues.[3] On July 23, 2004, PacifiCorp filed a stipulation (Stipulation) signed by the Joint Parties. Attached to the stipulation was a copy of the *Revised PacifiCorp Inter-Jurisdictional Cost Allocation Protocol* (Revised Protocol) and Appendix A. The other agreed-upon appendices had been attached to PacifiCorp's June 30, 2004 filing in this docket. The Stipulation and Revised Protocol with Appendices A through F are appended as Attachment A and incorporated by reference. On July 26, 2004, the Joint Parties filed testimony in support of the Stipulation.

On August 6, 2004, ICNU filed rebuttal testimony, surrebuttal testimony and testimony in opposition to the Stipulation. Staff and PacifiCorp filed surrebuttal testimony on August 12, 2004. All parties waived their right to cross-examine witnesses. No evidentiary hearing was held. The prefiled testimony was admitted into the record by the parties' affidavit and stipulation. On August 26, 2004, oral argument was held before the three Commissioners and the Administrative Law Judge.

Subsequent to the oral argument, the Commissioners asked the parties to respond to two questions in their post-argument briefs:

> The evidence shows that the Revised Protocol allocation is closer to Rolled In than to Hybrid with respect to the 14-year net present values of Oregon revenue requirements. (See Staff/202,

[2] The other Oregon parties are Portland General Electric Company and Northwest Energy Coalition, neither of which took an active role in the case.
[3] We note that Ronald J. Binz, Public Policy Consulting, also signed the stipulation on behalf of AARP. AARP was not a party in this docket.

> Wordley/31,44.) Assume that the Commission viewed Hybrid as a better approach to cost allocation, but recognized that the public interest is served by obtaining an agreement among (most of) the states.
>
> Based on the above, should the Commission impose conditions on the ratification of the Revised Protocol that: 1) reduce the forecasted deviation from Hybrid with a specified payment to Oregon customers as long as the Commission retains all other provisions of Revised Protocol; and/or 2) limit the allowable percentage increase in Oregon revenue requirement actually caused by the use of Revised Protocol instead of Hybrid (as it is specified by agreement of the parties) in each future rate case?

ICNU and PacifiCorp submitted briefs on September 7, 2004. Staff and CUB filed a joint brief on September 8, 2004.

This Commission, along with the utility regulatory bodies in the States of Washington, Utah, Idaho, and Wyoming, is being asked to ratify the Revised Protocol.

**Stipulation and Revised Protocol**

The Revised Protocol is a document describing how costs and wholesale revenues associated with PacifiCorp's generation, transmission, and distribution systems will be allocated among the six states.[4] The Revised Protocol does not establish the prudence of any cost related to the allocation of an expense or investment to a particular state. Rather, the prudence of a specific cost is left to each state to determine during future regulatory proceedings.

With adoption of the Revised Protocol, PacifiCorp agrees to continue planning and operating its generation and transmission system on an integrated basis to achieve a least cost/least risk resource portfolio for its customers. Use of the Revised Protocol by all states should provide PacifiCorp a reasonable opportunity to recover its prudently incurred expenses, and should allow PacifiCorp to earn its authorized rate of return. The Joint Parties believe that use of the Revised Protocol achieves a resolution of MSP issues that is in the public interest. Although the Joint Parties intend the terms of the Revised Protocol to be enduring, changed or unforeseen circumstances may occur which require a party to conclude in good faith that the Revised Protocol no longer produces results that are just and reasonable, or in the public interest. In that event, a party will no longer be bound to support the Revised Protocol.

Specific sections of the Revised Protocol describe the four categories of resources (seasonal, regional, state, and system). There are three types of seasonal resources (simple-cycle combustion turbines, seasonal contracts, and Cholla IV/APS), a

[4] PacifiCorp serves a portion of California. Although California did not participate in the MSP, key staff monitored the proceedings.

hydro-endowment regional resource, and three types of state resources (demand-side management programs, portfolio standards, and qualifying facilities contracts). All other resources are system resources, which constitute the vast majority of PacifiCorp resources. Cost shifts related to faster-growing states will be analyzed and quantified by PacifiCorp and the parties. Additionally, a multi-state workgroup will track key factors regarding load growth.

An MSP Standing Committee will be formed, consisting of one member/delegate from each Commission. The MSP Standing Committee will appoint a Standing Neutral to assist the Committee, facilitate discussions among the states, and monitor issues. The Standing Neutral will convene at least one meeting of the MSP Standing Committee each calendar year to discuss inter-jurisdictional issues facing PacifiCorp and its customers. While the MSP Committee may consider possible amendments to the Revised Protocol, any amendments would only go into effect after each Commission that previously ratified the Revised Protocol also ratified the amendments.

The Revised Protocol also contains provisions regarding the treatment of refunctionalized assets; the allocation of administrative and general costs, special contracts, and gain or loss from the sale of resources or transmission assets; and the assignment of distribution costs. Another section discusses the impact of direct access programs for loads lost and sale of freed-up resources.

The Stipulation states that Staff and CUB want to retain PacifiCorp's hydroelectric resources and Mid-Columbia contracts for Northwest citizens. As part of the negotiations, Staff and CUB accepted the Revised Protocol cost allocation for the existing qualifying facilities contracts. Staff and CUB also wanted to make certain that if Oregon customers were responsible for near-term costs and risks of the hydro resources, such as relicensing costs, then Oregon customers should also expect to receive the long-term benefits of these resources. The Joint Parties agreed that if any party proposes a material change to the allocation methods for hydroelectric resources, Mid-Columbia contracts, and existing qualifying facilities contracts, as those terms are defined in the Revised Protocol, the proposed change must be consistent with the trade-off between near-term negative impacts of existing qualifying facilities contracts and long-term positive impact of Mid-Columbia contracts, and the potential near-term costs and long-term benefits of hydroelectric resources.

Also, Staff and CUB did not want faster growing states, such as Utah, to impose unreasonable load growth costs on PacifiCorp customers in slower-growing states, such as Oregon. To address this concern, relatively current Load-Based Dynamic Allocation Factors, as defined by the Revised Protocol, should be used by the slower-growing states. As a basis for comparison, PacifiCorp must provide both the Modified Accord[5] and the Revised Protocol methods as comparators in all of its annual reports and general rate case filings for ten years following Commission ratification of the Revised Protocol.

[5] Modified Accord, with a slight variation adopted in the last stipulated rate case, is the current allocation method used by this Commission.

Finally, the Joint Parties agreed that if: 1) PacifiCorp's annual report of operations shows that its return on equity for Oregon operations, including Type I and Type II adjustments, is 200 basis points or more above the most recently Commission authorized rate of return, and 2) the Oregon Load-Based Dynamic Allocation Factors are forecasted to decline in the fiscal year subsequent to the reporting period, then PacifiCorp will file a tariff rider to establish a credit for Oregon customers.

**Hybrid Method**

During the course of the proceedings, several alternative allocation methods were discussed. One of these alternative methods, the Hybrid Method, is supported by ICNU.

The Hybrid Method divides the generation system into two regions (East and West) for regulatory accounting purposes. Oregon, Washington and California comprise the West Region, while Utah, Wyoming, and Idaho comprise the East Region. Each state's load, each PacifiCorp-owned resource, and most of the contracts are assigned to a Region. Under this methodology, most of PacifiCorp's existing hydroelectric resources and the majority of long-term power purchases would be assigned to the West Region. The states in each Region would set rates to recover the costs of the generating resources assigned to their Region.

The Hybrid Method includes a process to allocate costs and revenues associated with system balancing purchases/sales and interchanges deemed to be made between the regions. There is also a process for sharing operational reserves between the regions.

The loads in the East Region are forecasted to grow faster than those in the West Region. Utilization of the Hybrid Method would eliminate the concern that West Region customers, such as Oregon, would subsidize the forecasted load growth in the East Region.

The Hybrid Method was developed by a workgroup consisting of representatives from this Commission, the Utah Division of Public Utilities, the Idaho Public Utilities Commission, and PacifiCorp. Because this allocation method was unacceptable to the Utah parties, the assumptions and implementation details were never agreed upon by all states involved in the MSP.

## DISCUSSION

**Burden of Proof**

PacifiCorp must establish, by a preponderance of the evidence, that adoption of the Revised Protocol is in the public interest. In making our determination we will also

look to the evidence submitted by Staff and CUB, as they joined PacifiCorp in asking for adoption of the Revised Protocol.

**Commission Goals**

We established three goals for the MSP in Order No. 02-193. We initially review the Revised Protocol to determine whether it meets those goals.

1. Determine an allocation methodology that would allow PacifiCorp an opportunity to recover its prudently incurred costs associated with its investment in generation resources.

The Joint Parties agree that use of the Revised Protocol by the six states served by PacifiCorp will give PacifiCorp an opportunity to recover its prudently incurred costs. ICNU does not disagree. We find that the Revised Protocol provisions meet this Commission goal.

2. Insure that Oregon's share of PacifiCorp's costs is equitable in relation to other states.

One of the major disagreements between the Joint Parties and ICNU arises from this goal – that Oregon customers would subsidize other states' energy costs, and pay higher rates because of the subsidization under the Revised Protocol. Because subsidization is not eliminated under the Revised Protocol, ICNU urges this Commission to reject it.

Our reading of the equitable sharing goal does not require elimination of subsidization. While we understand that the Oregon coalition had established elimination of subsidization as a principle, our goal was more broadly written. Simply stated, we required that all states concerned be dealt with fairly and equally, which is the definition of "equitable." As long as Oregon, along with the other five states, pay an appropriate share of its costs under the Revised Protocol, then the equitable sharing goal has been met.

ICNU's witness, Mr. Falkenberg, testified, "[I]t is impossible to prove [whether Oregon's share of PacifiCorp's costs is equitable in relation to other states] one way or the other, because to do so would require determination as to what the proper jurisdictional allocation should be in the first place." ICNU/100, Falkenberg/20. This creates a conundrum. To what do we compare to determine if the allocation methodology is equitable? PacifiCorp suggests that we look at how each state's revenue requirement is impacted compared to the current allocation method.

In Oregon, the Revised Protocol, on a net present value basis, is projected to reduce Oregon's revenue requirement by approximately $45.5 million as compared to the Modified Accord method. Utah's revenue requirement increases, due to its relatively higher load growth, reduction of previously allocated hydroelectric resources, and treatment of seasonal resources. The Revised Protocol tries to allocate the benefits of PacifiCorp's system integration with an eye to each state's relative load.

ICNU disagrees with the method used by the Joint Parties in analyzing the benefits of Revised Protocol. ICNU looks at the current average rates of PacifiCorp's service areas, and compares the change in the rates since the merger between Pacific Power and Light and Utah Power and Light. Because Oregon's customer rates have increased while Utah's customer rates have decreased, ICNU argues that the merger was detrimental to Oregon customers. ICNU contends that this Commission has an opportunity to "fix" the effects of the merger in this docket.

The evidence shows that there are other factors besides allocation of generation costs that affect average price per MWh within a state. These factors include the mix of customers, state load factor, and the non-system allocated costs included in revenue requirements. PPL/414, Taylor/4. Further, Staff's analysis describes other factors to explain the difference in Oregon and Utah's average rates, such as distribution plant cost, weatherization loans, supplemental rate schedules, and amortization of demand side management investments. Staff/300, Hellman/2.

Allocation under the Hybrid Method as currently configured would mitigate the subsidization of load growth and would result in lower rates than allocation under the Revised Protocol.[6] However, the use of the Hybrid Method would have a negative effect on other states, particularly Wyoming and Utah. *See,* Staff/100, Hellman/14. We believe that there are benefits to an agreement among all of the states. We also believe there is benefit to further study, which is proposed by the Revised Protocol.

Our review of the testimony and arguments persuades us that the Revised Protocol meets the equitable sharing goal.

3. Meet the public interest standard in Oregon.

ICNU contends the Revised Protocol does not meet the public interest standard because it does not fully protect Oregon customers from the costs of serving load in faster growing states. Because the Revised Protocol does not meet the public interest standard, ICNU urges the Commission to reject it.

The Joint Parties assert that adoption of the Revised Protocol is in the public interest. PacifiCorp established that on a present value basis over the 14-year study period, the Revised Protocol is projected to reduce PacifiCorp's Oregon revenue requirement by approximately $45.5 million (.55 percent) compared to the current Modified Accord method of allocation. Second, Oregon customers retain an entitlement to hydroelectric resources. As for issues of cost shifting among states, further study will occur to identify and implement structural protection mechanisms as needed to guarantee that differential load growth will not result in unwarranted cost shifting.

[6] Using the model runs produced during the MSP, Oregon's allocation of PacifiCorp costs could increase by as much as $62 million because of Utah's higher load growth. Staff/200, Wordley/10.

Staff testified that the Revised Protocol treatment of the hydroelectric resources and the Mid-Columbia contracts; the protection from non-economic decisions of other states; and provisions which enhance Oregon's ability to implement direct access provisions, meet the "public interest" test. Staff also believes that PacifiCorp costs generally will decrease with the resolution of interjurisdictional allocation issues because PacifiCorp will know that it should be able to adequately recover its costs, and not have to make its resource decisions based on the likelihood of cost recovery.

We agree with Staff and hold that ratification of the Revised Protocol is in the public interest. While the Revised Protocol does not eliminate all subsidization, as previously discussed, the Revised Protocol maintains a large majority of the hydroelectric resources and Mid-Columbia contracts for the Northwest. The agreement to accept a larger share of the existing qualifying facilities contract cost, in consideration of revising the treatment of the Mid-Columbia contracts, is appropriate.

The issues of load growth and subsidization need to be addressed in a manner that is equitable to all parties. While we have acknowledged that an acceptable amount of subsidization occurs under the Revised Protocol, we urge the MSP Standing Neutral to make a good faith attempt to further limit cost shifting.

**ICNU Conditions**

Having found that the Revised Protocol reasonably meets our three goals, we consider whether additional conditions should be imposed. ICNU has proposed five conditions to be added if the Commission chooses to adopt the Revised Protocol:

1. A "most favored nations" clause;
2. Rate mitigation caps;
3. Two specific hydro endowment conditions: one which addresses costs associated with qualifying facilities, and one designed to provide Oregon customers with all of the benefits of the PacifiCorp system;
4. Specific structural safeguards against cost shifting; and
5. Ongoing review of Revised Protocol.

"Most Favored Nations" Clause

Under this condition, ICNU asks that PacifiCorp be required to offer Oregon any condition that PacifiCorp offered to other states. ICNU proposed this condition for two reasons: 1) Because Oregon was intended to be one of the first states to consider ratification, ICNU didn't want Oregon to ratify this version of the Revised Protocol while another state ratified a different version; and 2) if PacifiCorp offered some financial or other inducement for ratification to another state, then the same inducement should also be offered to Oregon.

ICNU's first reason for the condition is essentially moot as Oregon is now one of the last states to ratify the protocol. Further, Section XIII of the Revised Protocol

addresses the concern raised by ICNU. This section states that if the Revised Protocol is rejected or materially changed by the Utah, Wyoming or Idaho Commissions following the Oregon Commission's ratification, the material changes must be brought before the Oregon Commission for further review.

As for the second reason, ICNU wants a blanket offer of all conditions to all states, notwithstanding whether there is any rationale for different conditions being offered to different states. ICNU specifically raises this issue due to offers made to the Utah Commission, which are discussed in greater detail below. We are aware of the conditions under which Utah ratified the Revised Protocol, and do not require such conditions to be offered to Oregon prior to our ratification. We do not require this condition to be added.

Rate Mitigation Measures

ICNU asks for rate mitigation caps to limit any increase in PacifiCorp's Oregon revenue requirement and to provide certain specific ratepayer benefits. ICNU argues that subsidization of the Utah system over the past 16 years has caused Oregon's customer classes to pay more while Utah's customer rates have sharply declined. Since the Revised Protocol does not eliminate subsidization, ICNU proposes rate caps, and payment of the $45 million revenue requirement benefit as a rate credit.

ICNU points out that Utah and PacifiCorp entered into a side agreement that established rate caps from 2006 to 2009. These caps limit the amount by which PacifiCorp's Utah revenue requirement can exceed the amount calculated under the existing Rolled-In method.[7] The agreement also granted Rate Mitigation Premiums to PacifiCorp for use from 2010 to 2012. ICNU asserts that these measures will result in harm to Oregon customers. Because of this harm, the Commission should issue rate credits similar to the Utah agreement, comparing the Revised Protocol to the Modified Accord (seasonal) allocation method used in PacifiCorp's last rate case (UE 147).

While we understand the rationale used by Utah and PacifiCorp in establishing such measures due to the customer rate increases in Utah by using the Revised Protocol, we are troubled that some type of rate mitigation was not offered to Oregon customers.[8] However, as there are benefits to Oregon customers under the Revised Protocol, we do not pursue the issue of rate mitigation.

Hydro Endowment

ICNU proposes three conditions regarding the Hydro Endowment:

1. The costs associated with qualifying facilities on a state situs basis should not be included in PacifiCorp's Oregon revenue requirement

[7] This method assumes that all states will pay a portion of PacifiCorp's costs based on the state's share of total system demand, and energy, as well as other factors.

[8] There is some question whether we could legally require rate mitigation caps or credits in this proceeding, as it is not a rate case. Because we declined to require caps or credits, we do not resolve this question.

unless Oregon's portion of the value of the Mid-Columbia contracts exceeds the costs associated with the qualifying facilities on an Oregon situs basis.

2. All benefits of the PacifiCorp hydro system shall be allocated to Oregon customers on the basis of the embedded cost differential method.
3. If, after any point at which the Revised Protocol is adopted by the Oregon Commission, any other state in which PacifiCorp operates decides not to recognize or abide by the Commission-approved Revised Protocol, PacifiCorp will assume the risk of such decisions by those other jurisdictions.

ICNU then set forth specific adjustments to be made to the Revised Protocol language.

ICNU proposes these conditions to ensure the duration and sufficiency of the Hydro Endowment. Specifically, ICNU is concerned that the Hydro Endowment is not permanent, and that Oregon customers do not receive a sufficient amount of the Hydro Endowment.

The Hydro Endowment is clearly viewed as a long term condition of the Revised Protocol and Stipulation. As such, we find it to be sufficiently permanent. We question whether we are even able to make a "permanent" decision such as outlined by ICNU. The Oregon parties' expectations, which are that the Hydro Endowment be long-term, that it be recognized by Utah, and that PacifiCorp not propose treatment of the hydro resources that materially differs from the Revised Protocol, are met. We find that the duration of the Hydro Endowment is sufficient.

As for sufficiency of the benefits, the Revised Protocol establishes a system for allocating cost and resources, not benefits. We agree, as alluded to by PacifiCorp, that trying to allocate benefits would have created more dissension for the involved states than allocating costs and resources. The discussion of the Hydro Endowment in the Stipulation and Revised Protocol provides the assurances needed by the Commission.

Finally, we do not adopt the clause stating that PacifiCorp assumes the risk of other jurisdictions "backing out" of the Revised Protocol. We expect that if any state has issues about the Revised Protocol, these issues will be discussed by the Standing Committee. Further, even if another state "backs out," we still maintain our ability to determine whether the Revised Protocol is the appropriate allocation method.

Cost Shifting Safeguards

ICNU asks that the Commission adopt, or in the alternative, the parties develop, cost shifting safeguards. ICNU also suggests that the Oregon revenue requirement be adjusted by imputing market revenues to new plants to address costs shifted from faster growing states to slower growing states until the safeguards are put in place.

This condition is in conflict with the Revised Protocol, which we are ratifying by this order. The multi-state parties are committed to working on the cost shifting issue. We will allow that process to be used to resolve any ongoing cost shifting.

Ongoing Review

ICNU's final condition is:

> In the event that ScottishPower seeks, or is required, to obtain Commission approval to sell, merge, or transfer ownership of PacifiCorp pursuant to Oregon law, then all aspects of the Revised Protocol shall be subject to review.

This provision is not necessary, as this Commission *always* has, and retains, the authority to review the Revised Protocol. The question is under what circumstances will we exercise that authority. Clearly, the Revised Protocol provides a process for revision. There may be other circumstances that would require a review of the Revised Protocol. However, we will wait until the need arises to review the Revised Protocol, rather than speculate on what circumstances would trigger our review. This condition is not adopted.

In sum, we will not add any of the conditions proposed by ICNU. As previously stated, the Revised Protocol meets our established goals. Therefore, additional conditions are not needed to satisfy the public interest standard. We are also concerned that these proposed conditions would undermine the consensus reached among the states. To possibly jeopardize the overall agreement by adding unacceptable conditions to the Revised Protocol is not in the public interest. We do not adopt INCU's proposed conditions.

**Commission Conditions**

Our bench request asked the parties whether we should impose two conditions on the ratification of the Revised Protocol:

1. Reduce the forecasted deviation from Hybird with a specified payment to Oregon customers; and
2. Limit the allowable percentage increase in Oregon revenue requirement actually caused by the use of the Revised Protocol instead of the Hybrid Method.

The Joint Parties opposed the suggested conditions. ICNU supported both conditions.

There has been a great deal of discussion about the benefits of the Hybrid Method. While we conclude that the two conditions set forth in our bench

request should not be adopted, we agree with ICNU that the Hybrid Method should not be abandoned.

Section IV.E. of the Revised Protocol requires PacifiCorp, in consultation with the MSP Standing Committee and other parties, to file a report regarding load growth issues no later than nine months following the filing of PacifiCorp's 2004 Integrated Resource Plan (IRP). According to the Revised Protocol, this report will include a description of one or more options for structural protection against cost shifting. We direct PacifiCorp to include a fully developed Hybrid Method as one of options for structural protection in this report. To accomplish this, PacifiCorp should work with parties from Oregon and those interested from other states. This Hybrid Method should be designed to meet the three original Commission goals in Order No. 02-193. Once completed, the participating Oregon parties are to present the Hybrid Method to the Commission no later than December 1, 2005.

Furthermore, while the Revised Protocol uses the Modified Accord as a comparator for the Revised Protocol, we want to also use the Hybrid Method as a comparator. Therefore, upon approval of the agreed-upon Hybrid Method, or January 1, 2006, whichever comes first, PacifiCorp must file its annual reports and general rate case filings comparing results under the Revised Protocol with both Modified Accord and Hybrid Method results.

Finally, we would also like the Standing Committee to study variations of the Hybrid Method as a means to eliminate any cost shifting. Of course, we are open to looking at any resolution of this issue.

**Conclusion**

This has been a long process, with a great deal accomplished over the almost three years since this docket was opened. The goals established by the Commission have been met, although there is still work to be done. We hope that the Revised Protocol works for all of the states by providing certainty along with improved methods for allocating PacifiCorp's resources.

After reviewing the Stipulation and supporting testimony, the Commission concludes that the Stipulation and Revised Protocol are an appropriate resolution of all the issues. We adopt the Stipulation in its entirety and ratify the Revised Protocol.

## ORDER

IT IS ORDERED that:

1. The Stipulation is adopted and the Revised Protocol is ratified. Both documents are appended as Attachment A.

2. The Oregon parties are to devise a fully functional Hybrid Method no later than December 1, 2005.

3. PacifiCorp must file its annual reports and general rate case filings using both Modified Accord and the revised Hybrid Method as comparators beginning January 1, 2006, or once the Hybrid Method is completed, whichever occurs first.

Made, entered, and effective ______________________.

| ______________________ | ______________________ |
|---|---|
| **Lee Beyer**<br>Chairman | **Ray Baum**<br>Commissioner |

Concurring Opinion of Commissioner John Savage

I concur with the finding that ratification of the Revised Protocol is in the public interest.

I believe, however, that the Hybrid Method of cost allocation (Staff/102, Hellman/62-66) is superior to the Revised Protocol in some ways. The Hybrid Method retains the Hydro Endowment without the need for offsetting adjustments through the state-situs allocation of Qualifying Facility costs. The Hybrid Method assigns costs that are more closely aligned with the principle of cost-causation than does the Revised Protocol (for example, Oregon is not as exposed to the costs of meeting load growth in other states under the Hybrid Method). And it would result in lower costs to Oregon ratepayers (Staff/202, Wordley/31 and 44). Its failing is that it is not acceptable to the other states, just as Utah's preferred approach – the Rolled-In Method – is not acceptable to Oregon.

As the record shows, there would be a cost to Oregon ratepayers if the states fail to adopt a common cost-allocation method that would allow Pacific the opportunity to recover reasonable and prudently incurred costs. The Revised Protocol is acceptable to the other states, and on balance, adopting it is in the public interest.

This order requires PacifiCorp to work with other parties to refine the Hybrid Method and to show the results of both the Hybrid Method and the Revised Protocol in future rate cases. I will look to those comparative results to gauge whether just and reasonable rates for PacifiCorp's customers should be based on the consensus Revised Protocol or on a cost-allocation closer to the results of the Hybrid Method.

**John Savage**
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

# APPENDIX D

# Appendix D

# Utah PSC, Order No. 02-035-04

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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| In the Matter of the Application of PacifiCorp for an Investigation of Inter-jurisdictional Issues | ) ) ) | DOCKET NO. 02-035-04<br><br>REPORT AND ORDER |
|---|---|---|

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ISSUED: December 14, 2004

SHORT TITLE

**PacifiCorp MSP Case**

SYNOPSIS

The Commission approves a Stipulation by parties supporting the use of the Revised Protocol method in conjunction with rate mitigation measures for apportioning PacifiCorp=s costs and revenues among its various jurisdictions for determining Utah revenue requirement. The Stipulation provides for a method that permits PacifiCorp to plan and operate as a single integrated company doing business in six states.

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**APPEARANCES:**

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# I. PROCEDURAL HISTORY

On March 5, 2002, PacifiCorp (ACompany@) filed an application requesting the Commission to investigate a number of important issues related to its status as a multi-jurisdictional utility and to endorse a process through which these issues can be considered by stakeholders from all of the Company=s jurisdictions in a Multi-State Process (MSP). In its application, the Company listed a number of issues to be investigated, related primarily to the interjurisdictional allocation of the costs of existing and new generation and transmission resources under future scenarios including direct access[1], sale or purchase of service territory or closure of a major industrial facility.

On March 11, 2002, the Commission issued a notice of PacifiCorp=s MSP application and requested interested parties to file comments on both the application and the Company=s proposal for a Special Master for the MSP.

On March 18, 2002, PacifiCorp filed notice of its nomination of Mr. Robert I. Hanfling as the Special Master for the MSP.

On March 22 and April 3, 2002, the Division of Public Utilities (ADivision@) filed comments generally supporting the proposed MSP and the use of Mr. Hanfling as a facilitator. On March 26, 2002, the Committee of Consumer Services (ACommittee@) filed

[1]Direct access means an electric consumer who purchases power directly from market sellers and uses the electric utility to deliver the power through its transmission and distribution systems.

comments

supporting the MSP, but asked that the Special Master be termed a facilitator who would not be expected to make recommendations.

On April 3, 2002, the Commission issued an order initiating the MSP and announcing an organization meeting for the process in Boise, Idaho on April 10-12, 2002. On May 14, 2002, in response to PacifiCorp=s motion, a Protective Order was issued. MSP meetings, with PacifiCorp and representatives of parties in PacifiCorp=s states, including state regulators and intervenors, were held in May, July, September, October, November and December of 2002 and in February, June and July of 2003. These meetings were facilitated, at the state commissions= direction, by Robert Hanfling. Participants from Utah included Commission staff, the Division, the Committee, the UAE Intervention Group (AUAE@), the Federal Executive Agencies (AFEA@), Salt Lake Community Action Program (ASLCAP@) and Crossroads Urban Center (ACrossroads@). In addition, numerous teleconferences with these parties were held throughout this period.

On September 30, 2003, PacifiCorp filed a Motion and supporting testimony for Ratification of Interjurisdictional Cost Allocation Protocol (AProtocol@). A scheduling conference was held on October 24, 2003 followed by an order setting dates for technical conferences and for filing of parties= positions on the type of proceeding that should be used for the Protocol ratification as well as a preliminary issues list. A proposed procedure was filed on

November 7, 2003 by PacifiCorp followed by responsive filings and preliminary issues lists by other parties.

A technical conference was held on December 9, 2003. On December 22, 2003, the Commission issued an order setting the remaining schedule for the case with hearings set for July 19-20, 2004. Additional technical conferences were held pursuant to Commission orders on January 14 and 23, February 2, 9 and 10, March 3, 10, 15, 17 and 19, and April 6, 14, 15, 16 and 19, 2004. Attendees of these technical conferences typically included the parties to this case. On March 8, 2004, the Division, the Committee and UAE filed MSP issues papers. On April 27-28, 2004 in Boise, Idaho, a meeting of MSP participants from PacifiCorp states was conducted by MSP mediator, Robert Hanfling.

On May 7, 2004, a Commission scheduling order set dates for PacifiCorp to circulate a revised draft MSP proposal to Utah parties and to file a revised MSP proposal and supporting testimony. Following notice, settlement conferences were held on May 18 and 25, 2004. On May 21, 2004, PacifiCorp filed supplemental testimony describing the events occurring in the MSP since September 2003 and filed a revision to the MSP Protocol (ARevised Protocol@). On June 1, 2004, the Commission set dates for the filing of an MSP Stipulation and testimony by parties in support or opposition to the Stipulation.

On June 28, 2004 parties filed the Stipulation (attached) supporting a Revised Protocol for interjurisdictional allocations, use of the Rolled-In method as a baseline and rate mitigation measures. Parties to the Stipulation are the Division, the Committee, UAE, SLCAP, Crossroads, the AARP, FEA and PacifiCorp.

On July 12, 2004, PacifiCorp filed second supplemental testimony supporting the Stipulation. On July 15, 2004, direct testimony supporting the Stipulation and Revised Protocol was filed by the Division, the Committee and UAE.

The Stipulation was presented to the Commission at a hearing on July 19, 2004. At the hearing, witnesses for PacifiCorp, the Division, the Committee, UAE, SLCAP and Crossroads presented testimony supporting the Stipulation. No party presented testimony opposing the Stipulation. The Commission questioned the parties and witnesses regarding various aspects of the Stipulation and the evidence presented.

On August 18, 2004, the Committee filed a petition for leave to file a post hearing response regarding how class cost of service would be affected by the Revised Protocol. On September 3, 2004, PacifiCorp filed a response in opposition to the Committee=s petition, stating the petition was unnecessary and recommending that the Commission=s final order in this case not deal with rate design issues. On September 7, 2004, UAE filed a response in opposition to the Committee=s petition.

Parties to this case are PacifiCorp, the Division, Committee and the following intervenors: SLCAP, Crossroads, AARP, FEA, Western Resource Advocates and the UAE Intervention Group.

## II. REVISED PROTOCOL

Without modifying its terms in any way, the following is a brief summary of the Revised Protocol focusing on changes from the Rolled-In method currently used in Utah. The Revised Protocol, an interjurisdictional cost allocation method proposed by the Company in the

MSP, is a method of apportioning the costs and revenues associated with PacifiCorp=s generation, transmission and distribution systems among the six states in which PacifiCorp operates:

*1. Introduction*

PacifiCorp commits that it will continue to plan and operate its generation and transmission system on a six-state integrated basis in a manner that achieves for its customers a portfolio of resources based on a combination of least cost and risk. Parties who support the Revised Protocol do so in the expectation that it will achieve a resolution to MSP issues that is in the public interest. However, this support is not binding in the event that unforeseen or changed circumstances cause that party to conclude that the Revised Protocol no longer produces results that are just, reasonable and in the public interest. Also, support of the Revised Protocol is not deemed to constitute an acknowledgment by any party of the validity or invalidity of any particular method, theory or principle of regulation, cost recovery, cost of service or rate design.

*2. Allocation of Generation Resource Costs*

Resources will be assigned to one of four categories for interjurisdictional cost allocation purposes: Seasonal Resources, Regional Resources, State Resources, or System Resources. Seasonal Resources are grouped into the following three categories, with each having unique cost allocation formulae: Simple-Cycle Combustion Turbines, Seasonal Contracts, and Cholla IV/APS (Arizona Public Service exchange). Regional Resources include owned hydro and Mid-Columbia Contracts, with each having unique cost allocation formulae. State Resources include the following categories: Demand-Side Management Programs, Portfolio Standards, and

Qualifying Facilities (QF) Contracts, with each having a unique cost allocation formula. All resources that are not Seasonal Resources, Regional Resources or State Resources are System Resources.

3. *Load Growth*

Potential adverse impacts on states from faster growing states will be studied with ameliorative mechanisms developed if necessary.

4. *Refunctionalization of Transmission Costs*

If the Company is required (by the Federal Energy Regulatory Commission) to refunctionalize any assets from transmission to distribution, the cost responsibility will be assigned to the State where the assets are located.

5. *Treatment of Special Contracts*

Special Contract revenues will be included in State revenues. Special Contract loads will be included in all Load-based Dynamic Allocation Factors.

6. *Allocation of Gain or Loss from Asset Sales*

Any loss or gain from the sale of a Resource or a transmission asset will be allocated among States based upon the allocation factor used to allocate the Fixed Costs of the Resource or the transmission asset at the time of its sale. Each Commission will determine the allocation of the loss or gain between State customers and PacifiCorp shareholders.

7. *Implementation of Direct Access Programs*

Where the Company is required to continue to plan for the load of Direct Access Customers, such load will be included in Load-Based Dynamic Allocation Factors for all

Resources. After customers permanently choose direct access and where the Company is no longer required to plan for their loads, such loads will be used in the allocation of existing resources, but not for new resources acquired after the direct access choice. Revenues and costs from Direct Access Purchases and Sales will be assigned situs to the State where the Direct Access Customers are located and will not be included in Net Power Costs.

*8. Loss or Increase in Load*

Any loss or increase in retail load occurring as a result of condemnation or municipalization, sale or acquisition of service territory which involves less than five percent of system load, realignment of service territories, changes in economic conditions or gain or loss of large customers will be reflected in changes in Load-Based Dynamic Allocation Factors.

*9. Sustainability of Protocol*

An MSP Standing Committee will be organized consisting of one member or delegate of each Commission. The MSP Standing Committee will appoint a Standing Neutral, at the Company=s expense, to facilitate discussions among States, monitor issues and assist the MSP Standing Committee. The MSP Standing Committee will consider possible amendments to the Revised Protocol that would be equitable to PacifiCorp customers in all States and to the Company. Any proposed amendments to the Revised Protocol will be submitted by PacifiCorp to each Commission for approval.

## III. STIPULATION

Without modifying its terms in any way, the following is a brief summary of the Stipulation. Parties to the Stipulation agree to support the adoption of the previously described

Revised Protocol method in conjunction with the Rolled-In method and rate mitigation measures for establishing PacifiCorp=s Utah revenue requirement.

1. *Calculation of Utah Revenue Requirement*

The Company=s Utah revenue requirement will be the lessor of that calculated using the Rolled-In method multiplied by the applicable percentage Rate Mitigation Cap or that calculated using the Revised Protocol method multiplied by the applicable percentage Rate Mitigation Premium.

2. *Rate Mitigation Cap*

The Rate Mitigation Cap applied to the results of the Rolled-In method is 101.50 percent for the period from the effective date of the final Commission order in the first general rate proceeding filed after the effective date of the Stipulation through the Company=s fiscal year 2007, 101.25 percent for fiscal years 2008 and 2009 and 101.00 percent for fiscal years 2010 through 2014.

3. *Rate Mitigation Premium*

For the Company=s fiscal years 2010 through 2012, the Rate Mitigation Premium applied to the results of the Revised Protocol method is 100.25 percent. For all other fiscal years, the Rate Mitigation Premium is 100.00 percent.

4. *Threshold for Continued Support of the Revised Protocol*

The Company may propose a new interjurisdictional cost allocation method if during fiscal years 2010 through 2014 its Utah revenue requirement calculated using the Rolled-

In method multiplied by the Rate Mitigation Cap is less than that calculated using the Revised Protocol method.

The Stipulation provides that parties may withdraw support in the event the Revised Protocol is rejected or materially conditioned by any Commission or court, or if the Rate Mitigation Measures are rejected or materially conditioned by this Commission or any court. If any signatory to the Stipulation withdraws support, any other signatory may similarly withdraw support upon written notice to the Commission and other signatories.

The Stipulation further provides that neither the Stipulation nor the adoption of the Revised Protocol and the associated Rate Mitigation Measures shall in any manner affect or negate the necessary flexibility of the regulatory process to deal with changed or unforeseen circumstances, and a party=s execution of the Stipulation will not bind or be used against that party in the event that unforeseen or changed circumstances cause that party to conclude, in good faith, that the Revised Protocol no longer produces results that are just, reasonable, or in the public interest.

A copy of the narrative of the Stipulation and the narrative of the Revised Protocol (Exhibit A to the Stipulation) is attached to this Order.[2]

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[2]The Stipulation has three exhibits, Exhibit A is the Revised Protocol, Exhibit B is a list of allocation

## IV. POSITIONS OF PARTIES

The Company states in its application that differences in the way its state commissions allocate the Company=s pre-1989 generation and transmission investments currently result in a substantial under-recovery of costs, although no estimate of this amount is provided. The Company believes that the current under-recovery of costs may increase due to divergent state policies. In particular, the Company states there is no consensus among the states as to: 1) how costs of generation and transmission should be allocated; 2) who should bear responsibility or enjoy the benefits of resources in the event of direct access, sale or purchase of service territory or loss of industrial load; 3) the Company=s responsibility for meeting future load growth through the addition of rate-based resources; 4) who should bear the costs of new resources; 5) the choice of the new resources; and 6) no assurance that any consensus that might emerge will be durable so as to permit full cost recovery over the resource=s life. PacifiCorp therefore seeks a more durable resolution to the interjurisdictional allocation issue. The Company testifies it initially sought, in December 2000, to address its problems by reorganizing

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factors, for the Revised Protocol and Rolled-In methods, applied to each component of revenue requirement and Exhibit C is the algebraic definitions of the Rolled-In allocation factors. Exhibit A, Revised Protocol has six Appendices: Appendix A is the definitions of terms, Appendix B is a list of allocation factors applied to each component of revenue requirement, Appendix C is the algebraic definitions of the Revised Protocol allocation factors, Appendix D is a description of the treatment of special contracts, Appendix E is a list of FERC accounts used in the definition of AAnnual Embedded Costs@, and Appendix F is a description of each state=s share of the Mid-Columbia contracts.

itself into six distribution companies, a generation company and a service company. The Company testifies a principal reason for this proposal was the Oregon direct access legislation (SB 1149) adopted in 1999 and its expectation that other states would pursue direct access. The Company states the restructuring proposal was controversial since it would result in a transfer of jurisdiction from its state commissions to the Federal Energy Regulatory Commission and the Securities and Exchange Commission. The Company further explains it was encouraged by the states to seek other means of resolving its concerns that did not require a legal restructuring of the Company and this ultimately led to the MSP.

The Company presents Revised Protocol, in conjunction with the Stipulation, as an acceptable resolution to the six issues stated above. The Stipulation states the Revised Protocol, if followed by all states, would, in the long run, result in the opportunity for the Company to recover all of its prudently incurred costs and earn its authorized rate of return. In addition, it provides a forum to resolve new interjurisdictional issues.

The Company testifies the Stipulation will provide benefits to Utah customers including: 1) continued six-state integrated system planning and operation; 2) improved ability to implement the results of those planning efforts; 3) continued access to financial and commercial trading markets as a heathy utility; 4) retention of the benefits and efficiencies of the integrated system; 5) improved ability to work with state policy makers and address differences in policies amongst the states in the context of an integrated system; and 6) mitigation of some of the impacts on other jurisdictions of a single state=s energy policy.

PacifiCorp further testifies its forecast on a net present value basis of the economic impact of the Revised Protocol on any state is relatively modest. The forecasted economic impact on Utah is an increase in revenue requirement, on a net present value basis for the period 2005 through 2018, of 0.68 percent. This increase represents the difference in results of interjurisdictional allocation to Utah between the Revised Protocol and the currently used Rolled-In method, but does not include the effect of the rate mitigation measures contained in the Stipulation. The Company=s analyses suggest that during the early years, Utah and Idaho will be worse off under the Revised Protocol method than under the Rolled-In method, but they will be better off in the later years of the analyses. Conversely, Oregon, Washington and Wyoming will be better off under Revised Protocol in the early years and worse off in the later years.

In its response to the Committee=s post-hearing filing, the Company cites language in the Revised Protocol that leaves unresolved how the effect of the Revised Protocol should be applied to or apportioned among customer classes in Utah. PacifiCorp agrees with the Committee=s assertion that the record regarding rate spread is not fully developed in this proceeding and concurs with the Committee=s recommendation that the Commission=s order in this docket not deal with how the revenue requirement impacts from use of the Revised Protocol and Stipulation be applied to, or apportioned among customer classes in Utah.

The Division testifies the MSP was established to address a cost recovery problem. The Division describes this problem as less than full cost recovery of existing generation costs due to adoption of different cost allocation methods among states and less than full cost recovery of new generation cost due to Oregon=s legislation which undercut that

jurisdiction=s rate base participation in future generation plants. Further, the Division states its concern about the Company=s future ability to fund a least-cost/risk generation-transmission infrastructure absent a consistent cost-allocation mechanism among states.

The Division relies upon multiple policy objectives to evaluate possible resolutions to the cost recovery problem: 1) a financially sound utility; 2) efficient acquisition of resources; 3) safe, reliable service at reasonable rates; 4) minimal and reasonable cost shifts to Utah ratepayers; 5) minimal changes to the Rolled-In method; 6) regulatory ease and transparency; 7) consistency with Utah=s state energy policy principle of regional participation in developing regional solutions to common problems; and 8) balance the interests of customers and shareholders.

The Division states the Rolled-In method currently used in Utah represents a relatively simple and straight forward allocation method and any changes to the method should be as minimal as possible while still providing effective resolution to the cost recovery problem. The Division testifies the Revised Protocol method results in cost shifts to Utah in the early years that are not reasonable and that the Stipulation provides for mitigation of those early impacts. The Division testifies this mitigation is fair and in the public interest as it allows PacifiCorp a greater opportunity to recover its prudently incurred costs while also promoting rate stability and minimal cost impacts for ratepayers that are reasonable.

The Division testifies to several benefits from the MSP solution that are consistent with its policy objectives: 1) it promotes economic efficiency by retaining integrated system planning and operation; 2) by reducing the allocation gap and agreement on allocation of new

resource cost, it supports the Company=s continued access to financial markets and mitigates the risk of higher capital costs in rates; 3) through agreement on allocation of new resources, it improves the Company=s ability to implement its resource plans; 4) it provides improved clarity on the allocation of Special Contracts, Qualifying Facilities, and demand-side management costs; 5) through agreement on treatment of Oregon=s Direct Access program, it can mitigate the impact on other jurisdictions of another state=s energy policies; and; 6) it preserves existing state jurisdiction over generation and transmission assets.

The Committee testifies it supports the Revised Protocol with the protections of the Stipulation, in order to provide the Company with greater certainty of cost recovery given its significant resource and infrastructure investment requirements. However, the Committee testifies the Rolled-In method should remain the standard for determining just and reasonable rates and it would not support the Revised Protocol method if revenue requirement impacts shown in Company forecasts did not approach those of the Rolled-In method.

The Committee testifies the Company initially identified its interjurisdictional problem in a filing it made before the Oregon Commission, wherein the Company noted the Resource Plan process required by Oregon was inconsistent with current system operation and interjurisdictional allocation practices. Even though the Resource Plan requirements were delayed or changed, the Committee agreed that inter-state discussion regarding implementation of Oregon=s SB 1149 deregulation law was reasonable. Additionally, due to Oregon deregulation and the deregulation movement in general, the Committee argues the Company became reluctant to invest in new plant for fear it would not recover its full investment. The

Committee argues the Company responded by placing greater reliance on market purchases to meet growing demand leading to higher cost and greater uncertainty for customers than if a lowest cost/risk portfolio of resources were employed to serve them over the long run. Although the Committee testifies it urged the Company to implement Aeffective@ planning, the Company responded that other states would not pay for new resources. In order to resolve this issue, the Committee testifies discussion with other states was important.

The Committee contends the Company=s Revised Protocol, absent the Stipulation, has advantages and disadvantages for Utah customers. The Revised Protocol=s key advantage, if followed by all states, is agreement of states on an allocation approach consistent with single system planning and operation, giving the opportunity for the Company to recover its prudently incurred costs over time, and thereby providing the Company with proper incentive to proceed with integrated resource planning and least cost resource acquisition in a timely manner.

However, the Committee notes disadvantages as well. The Committee is concerned that the resolution is too costly to Utah in the near term in comparison to a fair share benchmark[3] and finds the timing of relative cost impacts to implement it problematic. Further, the Committee questions its durability for several reasons. Because some components are not cost-based, it could lead to unintended consequences and erode support; rate shock could erode support because the cost impact to each state changes over time. The directive to the standing

[3]The Committee explains theAfair share benchmark@ is in essence one-half of the difference between the Utah revenue requirements calculated under the Rolled-In and Modified Accord methods and was first proposed by a PacifiCorp representative in November 2000 as a way to close the allocation gap. The concept proposed was for each state to pick up a proportional share of the allocation gap, which at that time was approximately $55 million per year, but forecast by the Company to disappear within five or six years.

committee of examining structural mechanisms as a means to address load growth impacts is at odds with the Committee=s perception of the primary benefit of a common allocation method: the commitment to integrated system operation and resource planning. The Committee also believes the treatment of seasonal resources is not principled and unfairly burdens the summer season. Additionally, the Committee questions the durability of the Revised Protocol given the lack of durability of the Company=s assumption of the risk of differences in interjurisdictional allocation methods in the 1989 merger and also in the 1999 Scottish Power merger. The Committee testifies the Commission, in a 1990 case, established the Rolled-In method as the Utah allocation method and reaffirmed it in 1997 while allowing for a merger fairness adjustment. The Committee further explains Utah customers used a refund due them in the 1997 general rate case (Docket No. 97-035-01) to buy out the remaining fairness adjustment to complete the transition to the Rolled-In method. Finally, the Committee sees no principled basis for supporting any type of permanent resource endowment, such as the hydro adjustment, for any group as the PacifiCorp system uses the mix of resources to provide beneficial service to all its customers jointly.

The Committee states the Stipulation addresses some of these concerns. It makes the following recommendations to ensure the public interest is served: 1) the Commission should reaffirm that a traditional single-system, fully Rolled-In allocation method is the rate-making standard for determining cost causation and for evaluating whether a rate is just and reasonable and that deviations from the Rolled-In method be for reasons other than cost causation; 2) the Company should be ordered to report Rolled-In and Revised Protocol revenue requirement

results in its reports on the semi-annual results of operations and in any future rate case filings; 3) if after 2014 the Utah revenue requirement calculated using the Revised Protocol method should ever exceed 1 percent more than that calculated using the Rolled-In method, the Commission should open a docket to reconsider the just and reasonableness of the Revised Protocol; 4) the Commission should state its intent to resolve with the MSP Standing Committee specific issues regarding seasonal resources; and 5) the Company should be required to file with the Commission regarding the materiality of possible harm from load growth before taking a position before the MSP Standing Committee.

The Committee in its post-hearing filing states the record regarding rate spread to customer classes is not fully developed in this proceeding and recommends the Commission Order in this docket not address how the revenue requirement impacts resulting from use of the Revised Protocol and Stipulation be applied to, or apportioned among, customer classes in Utah.

The UAE testifies the Stipulation is in the public interest as it resolves the issue of inconsistent interjurisdictional allocation methods and provides reasonable rate mitigation for Utah customers. UAE testifies: 1) various jurisdictions in the Company=s territory have in recent years adopted interjurisdictional allocation methods that are not consistent with one another; 2) this problem is particularly significant in the two largest jurisdictions, Utah and Oregon; 3) PacifiCorp maintains this inconsistency has deprived the Company of a reasonable opportunity to fully recover its prudently-incurred costs, and thus is harmful to the Company=s financial integrity; 4) the Company has been reluctant to invest in necessary infrastructure because of its fear that not all of its investment will be recovered; 5) the perception of financial

harm may have negative consequences for customers, particularly in the form of increased costs to the Company in capital markets; 6) ratepayers will be harmed to the extent the utility refuses to make necessary infrastructure investments; 7) the Company=s explicit agreement (by accepting prior merger conditions) to accept the risk of inconsistent interjurisdictional cost allocation methods must be factored into any fair and reasonable resolution of the allocation problem; 8) the Stipulation provides a transition period during which the impact and risks associated with the change in interjurisdictional allocation method is mitigated for Utah customers; 9) the Stipulation and associated rate mitigation measures effect a sharing of the financial impacts of the use of the Revised Protocol method between the Company=s Utah ratepayers and its shareholders; 10) and absent the Stipulation=s rate mitigation provisions which protect Utah customers through 2014, it would not have signed the Stipulation. UAE further explains that Utah parties were unwilling to concede to a permanent hydro endowment since, if the Revised Protocol fails to produce just and reasonable results, parties will be free to advocate for any reasonable interjurisdictional allocation method. UAE, in its response to the Committee=s post-hearing filing, agrees with PacifiCorp=s response that the issues raised by the Committee regarding cost of service and rate impacts of the Stipulation to customer classes have not been analyzed or addressed on the record in this docket and thus cannot properly be addressed or resolved in the Commission=s Order.

SLCAP and Crossroads testify that taken together as a package, the Stipulation and Revised Protocol provide benefits both for PacifiCorp and Utah parties. They testify the Revised Protocol provides PacifiCorp with a consistent allocation method that has been lacking

in recent years, giving the Company needed assurance of a reasonable opportunity to fully recover its prudently incurred costs, thus enabling it to move forward with investments and needed infrastructure. They believe Utah customers will benefit from this assurance through the Company=s ability to access financial markets at a reasonable cost. SLCAP and Crossroads testify to other benefits including: 1) keeping the system intact and operating as a whole with least cost planning and operation of generation and transmission systems; 2) retaining the traditional dynamic allocation approach, albeit with modifications; 3) setting reasonable bounds around the cost impacts to Utah in the initial years; 4) sharing the near-term impacts of moving forward to the Revised Protocol allocation method between Utah ratepayers and PacifiCorp in an appropriate manner; 5) retaining flexibility that would have been difficult under some of the other scenarios that have been proposed including a permanent structural separation; 6) providing information on a regular basis that will allow Utah parties to analyze the revenue requirement impacts under different allocation methods; and 7) providing a mechanism through the MSP Standing Committee for potential resolution of issues on an ongoing basis. Finally, SLCAP and Crossroads testify that Utah parties= insistence on decision-making based on analysis resulted in a far better conclusion than otherwise would have been reached and that while the agreed-upon proposal is not a perfect solution, it is a reasonable one and therefore believe the Stipulation and Revised Protocol, taken as a whole, are in the public interest and should be approved by the Commission.

## V. BACKGROUND

It is essential that we review the history of interjurisdictional allocation

proceedings in Utah as we have a well-developed and long-standing record of decision on the adoption of an allocation method for use in determining just and reasonable rates in Utah. We review the bases for our record of decision to identify the changes that have occurred since those decisions were made that would warrant adjustment to interjurisdictional allocations in order to continue to ensure just and reasonable rates in Utah.

Prior to the 1989 merger of Utah Power and PacifiCorp (Docket No. 87-035-27), Utah Power served wholesale customers under FERC jurisdiction and retail customers in Utah, Idaho and Wyoming under state jurisdictions. In that merger case, the Division testified that the risk of dollars Afalling through the cracks@ within the inter-state allocation process existed then and that shareholders assumed the risk of less than full cost recovery. Although the 1989 merger was approved without resolution of interjurisdictional allocation issues, the states worked on the issues while the Company accepted the risk of less than full cost recovery. For many years the Company reported results of operations to the states using common interjurisdictional allocation methods, although allowed rates of return and revenue requirement adjustments were not always the same among the states. The beginnings of retail electric choice around the country, changes in wholesale power markets and FERC=s transmission initiatives impacted regulated electric utilities in various ways. The Company addressed this in its December 1, 2000 filing for corporate restructuring as its concerns expanded beyond the then differing state interjurisdictional allocation methods. In the current case, parties testify of a problem and propose a resolution that changes the way Utah addresses interjurisdictional allocations.

The following background briefly summarizes this Commission=s long-standing

commitment to the use of the traditional Rolled-In method of interjurisdictional allocations. In the present docket, we are asked to modify this position.

**A. The 1989 PacifiCorp/UP&L Merger, Docket No. 87-035-27**

Utah Power and PacifiCorp filed on September 17, 1987, for Commission approval of the merger. Interjurisdictional allocation problems were anticipated but not resolved in the merger approval proceedings. Applicants were concerned if each regulatory jurisdiction reviewing the merger were to adopt allocation procedures, inconsistencies between them could delay the merger beyond the Applicants= required deadline. The Applicants assured the Commission that the merger benefits were so large that under any reasonable allocation method Utah ratepayers would be better off with the merger.

The Commission=s September 28, 1988 Order approving the Merger required the Applicants to convene multi-jurisdictional meetings to discuss allocation issues and to file a proposed interjurisdictional allocation method for the merged company. The proposed allocation method was to avoid total reliance on stand-alone modeling, to be verifiable against actual data, and to equitably allocate the benefits of the Utah Power transmission system and the Pacific Power hydro resources. PacifiCorp shareholders were to assume all risks that may result from less than full system cost recovery due to the adoption of different allocation methods by its regulatory jurisdictions. The PacifiCorp Interjurisdictional Task force on Allocations (APITA@) was convened.

**B. 1988 Pre-Merger ABenchmark@ General Rate Case, Docket No. 89-035-10**

The Commission initiated a general rate case based on Utah Power=s last full year

of pre-merger operations to ensure Utah rates reflected the cost reductions occurring prior to and unrelated to the 1989 merger.

### C. 1990 Phase I General Rate Case, Docket No. 90-035-06

In its December 7, 1990 Phase I order, the Commission addressed allocation issues for the merged company. PITA had developed two interjurisdictional allocation methods, Consensus[4] and Rolled-In. The Commission found due to cost structure differences of the pre-merger companies, immediate adoption of the Rolled-In method would shift costs from the Utah division to the Pacific division of the merged company, producing an unfair result. The Commission adopted the results of the Consensus method, but not the method itself, for use in Phase II of the proceeding. The Commission stated that a single-system, Rolled-In allocation method provided the only acceptable benchmark or standard by which alternative allocation methods may be judged.

The Commission preferred that endowments, a key component of the Consensus method, be eliminated in the near future without abandoning the merger fairness objective[5]. The Commission then presented guidelines it would use in considering future allocation methods. These included: 1) a Rolled-In method will be the standard by which alternative methods will be judged; 2) future allocation methods will not diverge further from the Rolled-In method=s results

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[4]The Consensus method was the first interjurisdictional cost allocation method developed by PITA and included divisional assignment of pre-merger plant, off-system sales and purchases, wheeling, hydro and transmission endowments, and situs assignment of state income taxes. Endowments represented the preservation of some of the value of pre-merger assets for the benefit of the states who paid for the assets prior to the 1989 merger.

[5]Merger-fairness (objective) meant not having unreasonable cost shifts to other states from Utah=s movement to a Rolled-In interjurisdictional allocation method.

than does the Consensus method; 3) future allocation methods must promote progress toward the Rolled-In method standard; 4) ten years is a reasonable goal for the achievement of the Rolled-In method subject to the caveat that meeting the merger-fairness objective may continue to require some modification of the Rolled-In method, such as the assignment of pre-merger plant and contracts over a transitional period no longer than the depreciation schedules and contract renewals and terminations; 5) the opportunity to lower future system cost of service occasioned by the Arizona Public Service contracts will be weighed against any endowments assigned to divisions; 6) as the merging companies had produced no least cost planning on the record, it is unreasonable to assume Utah Power as a stand-alone company would have had a higher future resource cost than Pacific Power as a stand-alone company; 6) future allocation methods should attempt to use system rather than divisional allocation factors; and 7) all post-merger costs and non-retail revenues should be allocated system-wide.

**D. 1990 Phase II General Rate Case, Docket No. 90-035-06**

The Commission emphasized that the Rolled-In method was and would continue to be the benchmark by which the cost of merger-fairness was to be calculated. In this docket, merger-fairness was measured by the difference between jurisdictional revenue requirement calculated using the Consensus and Rolled-In methods. Applied to the adjusted 1990 test year data, this difference amounted to $72.74 million. The Commission concluded this amount represented the maximum divergence from Rolled-In method results it would permit, then and in the future, in order to achieve interjurisdictional fairness. The Commission also reaffirmed the necessity of single system, Rolled-In, embedded cost-of-service analysis for the Utah jurisdiction

and its service classes.

### E. 1997 Adoption of an Interjurisdictional Allocation Method, Docket No. 97-035-04

Beginning in 1993, the Company filed in Utah its semi-annual reports of system and Utah jurisdictional results of operations using the Accord[6] method, following development by PITA, although not formally adopted by the Commission (since it was not an issue brought before us). On March 26, 1997, the Division petitioned the Commission to establish an interjurisdictional allocation method, stating the Accord method was not acceptable as Company projections showed movement away from the Commission=s Rolled-In goal. The Division recommended adoption of the Rolled-In method. The Company supported the Modified Accord[7] method developed by PITA but not supported by Utah. This method was not adopted for use in Utah jurisdiction rate cases.

The Commission=s April 16, 1998 order adopted the Rolled-In method and concluded: (1) cost causation reflecting current rather than historical usage is the basis of cost apportionment; (2) merger-fairness based on direct assignment of jointly used plant must be rejected; (3) efforts to promote merger-fairness through ad hoc adjustments within allocation

[6]The Accord method was the second interjurisdictional allocation method developed by PITA, for use beginning January 1, 1993, and represented changes to the previous Consensus method. Off-system sales and purchases, wheeling, and state income taxes were changed from divisional to system treatment while the hydro and transmission endowments and divisional assignment of pre-merger plant were retained.

[7]The Modified Accord method was the third interjurisdictional cost allocation method developed by PITA, for use beginning in 1997, (although not supported by Utah) and represented changes from the Accord method. The transmission endowment was eliminated, the hydro endowment was reconfigured and new special contracts were given system treatment, while the divisional assignment of pre-merger plant was retained.

methods has unintended and inconsistent consequences; and (4) therefore the Modified Accord method, presented by the Company, is not adopted. The Commission reaffirmed its decisions in Docket 90-035-06 stating: (1) merger-fairness is achieved in Utah by a non-cost based lump-sum addition to Rolled-In revenue requirement; and (2) the merger-fairness adjustment is to be phased-out over time.

The Commission concluded that the merger-fairness adjustment was to be phased out over five years by means of a straight-line reduction, beginning in 1996 through 2000. For reporting and ratemaking purposes, the Company was ordered to use the Rolled-In method to determine jurisdictional revenue requirement and to include a fairness adjustment of $34.56 million for 1997, $25.92 million for 1998, $17.28 million for 1999, and $8.64 million for 2000. Beginning January 1, 2001 (twelve years after the merger), Utah jurisdictional revenue requirement was to be determined using the Rolled-In method with no further merger-fairness adjustment.

**F. 1998 General Rate Case, Docket No. 97-035-01**

On February 12, 1997, the Division and the Committee filed a petition with the Commission to initiate a general rate case for the Company. In order to allow a legislative task force to study electric industry restructuring issues, the Utah Legislature in its 1997 General Session enacted House Bill 313, which froze the Company=s rates on an interim basis, subject to refund, at January 31, 1997 levels until 60 days after the conclusion of the 1998 General Session.

The rate case proceedings resumed in the Spring of 1998, resulting in the Commission ordering a refund to customers. The refund period began March 14, 1997, when

House Bill 313 became effective, and extended until March 1, 1999 when new rates were to

become effective. The present value of the $51.5 million annual revenue reduction over the refund period, resulted in a refund owing to customers of $111.5 million.

The large value of the refund afforded the opportunity to offset the remaining future costs of merger-fairness, determined in Docket 97-035-04, against the refund. This would allow the immediate adoption of the Rolled-In method in a manner fair to both the Company and its customers. The Commission concluded that the normal pattern of rate cases, consistency and gradualism all called for allowing a two year lag for incorporating test-year adjustments into rates. Since new rates based on the 1997 test year were to become effective March 1, 1999, the future costs of fairness, recognizing a two year lag, included ten months of an 1999 annual amount of $34.56, $25.92 million for 2000, $17.28 million for 2001, and $8.64 million for 2002. The present value of these fairness amounts was $71.24 million.

Thus the $111.5 million refund owing to customers was reduced by the $71.24 million buyout and elimination of future fairness costs, resulting in a net refund of $40.26 million. This allowed the immediate movement to a Utah jurisdictional revenue requirement based on the Rolled-In method. The Company was then ordered to reduce its revenues by $85.36 million for rates effective March 1, 1999.

**G. 1999 ScottishPower Merger, Docket No. 98-2035-04**

On December 31, 1998, PacifiCorp and ScottishPower filed an application requesting approval of ScottishPower=s acquisition of PacifiCorp. On November 23, 1999, the

Commission approved the merger subject to a number of conditions including the requirement that Scottish Power and PacifiCorp assume all risks that may result from less than full system cost recovery if interjurisdictional allocation methods differ among PacifiCorp=s various state jurisdictions.

**H. 1999 General Rate Case, Docket No. 99-035-10**

On May 24, 2000, the Commission approved a rate increase of $17 million for PacifiCorp. This rate case was based on the Rolled-In method.

**I. 2000 Structural Realignment Proposal (ASRP@), Docket No. 00-035-15**

On December 1, 2000, the Company filed an application for Commission approval to implement a corporate restructuring that would reorganize itself into six distribution companies, a generation company and a service company. The Company cited seven developments that caused it to conclude that a change in company structure was necessary. These developments included: (1) direct access initiatives in Oregon and elsewhere; (2) the need to provide independent control of the Company=s transmission assets, consistent with expectations of FERC; (3) fundamental changes in wholesale power markets and the risk of generation supply shortages; (4) industry consolidation; (5) the divergent policy goals of the state commissions that regulate the Company; (6) the limitations of traditional cost-of-service regulation; and (7) the breakdown of the Company's interjurisdictional allocation process.

The Company stated the continued gridlock over interjurisdictional allocations resulted in the Company continuing to suffer a material earnings shortfall, and created disincentives for future infrastructure investment. The schedule in this docket was suspended on

April 3, 2002 concurrently with a Commission order initiating the MSP.

**J. 2001 and 2003 General Rate Cases, Docket Nos. 01-035-01, 03-2035-02**

On September 10, 2001, the Commission approved a $40.5 million rate increase for PacifiCorp. The rate case was based on Rolled-In interjurisdictional cost allocations. On December 17, 2003, the Commission approved a revenue requirement stipulation authorizing a $65 million increase in PacifiCorp=s Utah revenues effective April 1, 2004. The rate case was based on the Rolled-In method for interjurisdictional allocations.

In summary, the Rolled-In method was accepted by the Commission as early as 1990 as the benchmark or standard by which alternative allocation methods may be judged. The results of the PITA Consensus method were used to set rates in 1990, but the method itself was not adopted. The Accord method was used by PacifiCorp for reporting purposes for its semi-annual results of operations for the period 1993 to 1996, but never formally brought before the Commission for adoption. Since the 1989 merger, the only interjurisdictional allocation method adopted by this Commission has been the traditional, cost-based Rolled-In method, having adopted it in a 1997 case. The Rolled-In method has been used consistently in Utah since its adoption.

The December 2000 PacifiCorp filing for corporate restructuring began a renewed dialogue among the states. Ultimately, the states, concerned about potentially higher costs and loss of jurisdiction, encouraged the Company to seek other means of resolving its concerns that did not require a legal restructuring of the Company. In response, the Company filed its March

2002 application in Utah requesting the Commission initiate the MSP to investigate its concerns.

## VI. DISCUSSION, FINDINGS AND CONCLUSIONS

### A. The Problem

PacifiCorp provides retail electric service to more than 1.5 million customers in the western states of Utah, Oregon, Wyoming, Washington, Idaho and California. The retail rates in each state or jurisdiction are regulated by a state utility commission. PacifiCorp operates as a single integrated electric utility with transmission (high voltage) lines that interconnect these six states. PacifiCorp has generating plants located throughout the states that are used as a group of resources to provide electricity to retail customers in all six states. Integrated system costs are shown in the Load Growth Issues paper[8] and the Dynamic Alternative paper[9] to be substantially lower and more stable over time than separately operated systems due to greater flexibility afforded from diverse demand, supply and geographic characteristics, confirming that single system planning and operation provides lower costs to customers. Indeed, this expected outcome was the basis for the 1989 Utah/Pacific merger.

Since transmission lines and generating plants regardless of location are used to provide electricity to customers in all the states, the costs incurred and the wholesale revenues received from the use of those facilities must be divided among the six state jurisdictions. The

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[8]Committee Exhibit 1.6, ADraft April 22, 2004 Load Growth Issues@. This paper examined how effectively different interjurisdictional allocation methods handled varying load growth rates and the associated cost responsibility and identified integrated system benefits.

[9]Committee Exhibit 1.5, ADynamic Alternative: An Integrated Basis for Cost Recovery.@ June 12, 2003, submitted to MSP participants by Utah Parties. This paper examined and reported on system integration benefits.

dividing or apportionment of costs and revenues among the states is called interjurisdictional allocations. When different allocation methods are used in the six states (as is the current situation), PacifiCorp might recover more or less than its total costs through customer rates.

The advent of less than full system cost recovery is not new. The potential for cost recovery shortfall was anticipated at the time of each merger and directly addressed by merger conditions in past Commission orders. The September 28, 1988 Commission Order approving the Merger of Utah Power & Light Company and PacifiCorp imposed a number of conditions of the merger including:

> The Merged Company shall agree that PacifiCorp shareholders shall assume all risks that may result from less than full system cost recovery if inter-divisional allocations methods differ among the Merged Company=s various jurisdictions.

The November 23, 1999 Commission Order approving the Scottish Power/PacifiCorp Merger adopted a Stipulation between Scottish Power, PacifiCorp, the Division and the Committee with a number of conditions of the merger including:

> Scottish Power and PacifiCorp agree that they shall assume all risks that may result from less than full system cost recovery if interjurisdictional allocation methods differ among PacifiCorp=s various state jurisdictions. The DPU (Division) agrees to use its reasonable best efforts to reach agreement with other state regulators as to the interjurisdictional cost allocation methodology to be recommended to the respective state commissions. In the event the state regulators are unable to reach agreement or the DPU concludes that the methodology supported by any of the other U.S. regulatory states would cause actual or perceived financial harm or inequity (on the basis of projections at that time) to the ratepayers in Utah, the DPU may support or recommend such allocation methodology to the Commission as it determines to be appropriate. Scottish Power and PacifiCorp assume the risk of whatever allocation methodologies or decisions the Commission may adopt. In addition, Scottish Power and PacifiCorp assume all risks that may result from any difference among PacifiCorp=s various state jurisdictions in respect of the conditions imposed by the different state commissions relating to this merger transaction.

Thus the Company=s initial problem of inadequate cost recovery due to differing interjurisdictional allocation methods, although with an unclear magnitude, was directly addressed by its prior acceptance of merger conditions (*i.e.,* it willingly assumed the risk). However, the Company and parties believe the magnitude of the cost recovery problem and the impact on Utah ratepayers could potentially expand because of divergent state policies regarding cost responsibility for existing and future generation resources.

While the existing cost recovery gap is not new, we recognize two significant changes have occurred since our 1998 order in Docket No. 97-035-04. First, the Company, Division and Committee all testify that some aspects of the rules implementing Oregon=s restructuring legislation are inconsistent with integrated system operation and traditional cost allocation practice. For example, the rules presume a fixed assignment of generating resources to Oregon and require market purchases rather than rate base additions to meet growing Oregon cost of service customer obligations. Second, the Company=s system load and resource balance is dramatically different. The Company is no longer resource surplus relative to its loads and substantial investment is required going forward to meet service obligations and therefore agreement among the states on the sharing of the future costs is particularly important. Parties testify that studies continue to show lower costs and more stable rates with single system integrated planning and operation. We concur with this conclusion and continue to require long-run, least cost/risk acquisition of supply consistent with single integrated system planning and

operation. Absent a resolution to the divergent states= policies, parties argue that the cost recovery uncertainty could harm both shareholders and customers. For example, to the degree the Company adds only market purchases in compliance with Oregon SB 1149 rules, it runs the risk of disallowance in prudency hearings in Utah; to the degree it complies with Utah requirements and adds rate base investments, it runs the risk of non-compliance with Oregon rules and possible cost disallowance there.

Least cost system expansion to meet growing service obligations requires infrastructure investment by the Company for which confidence of cost recovery is needed. Parties acknowledge the Company has conflicting incentives from the states in which it serves, especially regarding generation cost recovery. If left unresolved, this could lead to higher cost or less reliable service for customers or cost disallowances for the company. We concur and find that agreement among states on an interjurisdictional allocation method, consistent with least cost integrated system planning and operation and adequate and reliable service to customers, is a reasonable regulatory objective. However, the particular agreement must be fair, just and reasonable.

We conclude that the problem we are addressing and resolving in this docket is the potential impact of divergent states= policies on interjurisdictional allocation and integrated system planning and operation that could result in Company action that is inconsistent with long-run least cost, adequate and reliable service to customers.

**B. Proposed Resolution of the Problem**

The Division, the Committee, UAE, SLCAP and Crossroads agree the Revised

Protocol, by itself, produces a substantial and unreasonable cost shift to Utah in the near term. Further, the parties all testify that forecasts can be wrong and therefore long-term impacts may be different than expected. In order to mitigate the near term cost impact and long-run uncertainties, the parties stipulate to rate mitigation measures and conditions to allow parties to withdraw support for the Revised Protocol should the future unfold in such a way that it produces rates in Utah that are no longer just and reasonable. PacifiCorp, the Division, the Committee, UAE, SLCAP, Crossroads, the AARP and the FEA submitted a written Stipulation to address these and other issues in this docket. The Stipulation, as discussed previously, supports the use of the Revised Protocol method in conjunction with the Rolled-In method and the rate mitigation measures for determining Utah revenue requirement.

Our consideration of the Stipulation is directed by Utah statutory provisions in 54-7-1 that encourage informal resolution of matters brought before the Commission. This consideration does not preclude the requirement in Utah Code 54-3-1 that all utility charges must be just and reasonable, as the Stipulation will ultimately have rate impacts on Utah customers. We also take direction from the Utah Supreme Court=s decision in *Utah Department of Administrative Services v. Public Service Commission,* 658 P.2d 601 (Utah 1983)(hereafter Wexpro II). In Wexpro II, the Supreme Court approved resolution, through parties= stipulation, of a remanded controversy before the Commission. The Court noted that AThe law has no interest in compelling all disputes to be resolved by litigation....The policy in favor of settlements applies to controversies before regulatory agencies, so long as settlement is not contrary to law and the public interest is safeguarded by review and approval by the appropriate public

authority.@ 658 P.2d, at 613.

At the hearing, parties supported approval of the Stipulation. The Committee qualifies its support by offering a number of recommendations to address remaining concerns. No party opposed the Stipulation.

Parties testify that the MSP involved extensive examination by participants of many alternative approaches to the interjurisdictional allocation problem before settling on two competing alternatives. We recognize the significant analytical contribution of Utah parties in providing a comprehensive examination of the numerous and complex issues raised in this matter. The MSP participants could not agree on a single alternative and after further study and discussions, the Company initially proposed the Protocol method to resolve the impasse. After additional meetings of MSP participants, the Protocol method was revised resulting in the Company=s filing of the Revised Protocol (previously described) as part of the Stipulation. It should be noted that the Revised Protocol method, even with the Stipulation, involves a cost shift from some states to other states, including Utah, and not just a reduction of the gap in cost recovery for the Company, and that Oregon, Washington and Wyoming will receive revenue requirement reductions both in the early years as well as in the net present value over the analysis period.

The Division cites a number of benefits, listed under positions of parties, that derive from the resolution of the problem through the Stipulation and states the rate mitigation measures are fair and in the public interest as they allow for small but reasonable cost impacts for

ratepayers relative to providing greater clarity regarding cost recovery of future company investments.

PacifiCorp also cites a number of benefits, listed under positions of parties, to Utah customers of resolution of the problem through the Stipulation and states the net present value of forecasted revenue requirement impacts of the Revised Protocol to Utah for the Company=s fiscal years 2005 through 2018 is 0.68 percent without the rate mitigation measures. The net present value of the economic impact on Utah for this period is 0.45 percent when the effect of the Stipulation=s mitigation measures are included. Attached is a chart entitled AMSP Forecast of Percent Changes in Utah Revenue Requirement@ showing, for the period 2005 through 2018 (the MSP analysis period), the forecasted annual percent impacts on Utah revenue requirement under the terms of the Stipulation. The Results of the Revised Protocol method, and the rate mitigation measures, are compared using the results of the Rolled-In method as a baseline. This chart presents the data that is the basis for the estimated long-run impacts to Utah.

UAE supports the Stipulation, and testifies it would not support the Revised Protocol method without the Stipulation=s rate mitigation provisions, as a way to address potential harm to both ratepayers and the Company from increased capital costs and delays in infrastructure investments.

The Committee testifies to disadvantages of the Revised Protocol, citing issues with the hydro adjustment; treatment of seasonal resources; and the standing committee=s directive to examine structural mechanisms to address load growth. The Committee makes recommendations, listed under positions of parties, to address these concerns. We will discuss

these under the Conditions section. The Committee recognizes the infrastructure investments

facing the Company and cites the principle of gradualism together with the protections of the Stipulation to justify its support of the Stipulation.

We find the forecasted impact on Utah of the Stipulation with its rate mitigation measures, is reasonable. Approval of the Stipulation, if followed by other states= adoption of the Revised Protocol, will put into place a common allocation practice among the states consistent with single system planning and operation and therefore will help the Company gain confidence to make the infrastructure investments necessary to provide reliable and low cost electric service. In line with UAE=s comments, the Company=s sharing of the financial impacts on Utah of the Revised Protocol is supported by its voluntary prior acceptance of the risk of inconsistent interjurisdictional allocation methods. The limiting of the impact to Utah in the first few years due to the rate mitigation caps in the Stipulation means the Company may still have a gap in cost recovery for those years.

**C. Conditions**

The Company states it understands Commission approval of the Stipulation will not be binding on parties to future rate proceedings and challenges to its terms will have to be dealt with on their merits as they arise. The Company testifies forecasts are not always accurate predictions of the future and therefore parties are not bound to continue to support the Stipulation if circumstances change such that it no longer produces results that are fair, just and reasonable.

If the Revised Protocol is not adopted by all six states, the Company testifies it

expects to move forward if approval is obtained from the four core states of Utah, Oregon, Wyoming and Idaho. The Company further states, if a court overturns a Commission=s approval, the language of the Revised Protocol would cause the Revised Protocol not to be finally adopted in the other jurisdictions. Because of the unknown outcome of the multi-state approval process at this time, we will defer any implementation decisions that would have rate impact until the appropriate rate case.

As mentioned earlier, the Stipulation provides that parties may withdraw support in the event the Revised Protocol is rejected or materially conditioned by any Commission or court, or if the Rate Mitigation Measures are rejected or materially conditioned by this Commission or any court. If any party withdraws support for the Stipulation, that party may initiate a new proceeding to consider changing the allocation method.

Our approval of the Stipulation must be conditional. First, in the short term, the Revised Protocol must be adopted by the other PacifiCorp states without material change or conditions and must also survive any legal challenges. Second, in the long run, it must not result in significantly different impacts on Utah than now expected. If the projected savings to Utah in the later years, which substantially offset the increases in the early years, do not materialize, we may reconsider the further use of the Stipulation. As the Stipulation only covers the period through 2014, the Committee recommends that if the Revised Protocol method, after 2014, should ever result in Utah revenue requirement exceeding one percent more than that calculated using the Rolled-In method, the Commission should open a docket to reconsider the just and reasonableness of the Revised Protocol method. We expect that if that situation arises, either the

Committee or another party would request the Commission to open such a docket. UAE testifies the Rate Mitigation Caps should continue to apply even after changes to the Revised Protocol. This position arises from the possibility that the MSP Standing Committee may propose changes to the Revised Protocol that state commissions may implement. Any impact of proposed changes to the Revised Protocol will be considered at the time changes are brought before us. The Stipulation cannot restrict future regulatory review and changes if it no longer produces results that are just, reasonable, and in the public interest.

In accordance with the previously mentioned Committee concerns regarding the treatment of seasonal resources under Revised Protocol, it is our intent that the MSP Standing Committee be asked to further examine the treatment of seasonal resources, including a review of the second GRID run approach. We concur with the Committee=s recommendation and will require the Company to file with us regarding the materiality of possible harm to other states from a fast growing jurisdiction before taking a position before the MSP Standing Committee.

We recognize the dedicated efforts, the extensive work and the value added by the Utah parties as part of the MSP. We expect this work, such as the load growth paper previously cited, to be the starting point for future discussions at the MSP Standing Committee.

**D. Change From Previous Orders**

In the background section we discussed the adoption and subsequent use, by the Commission, of the Rolled-In method and its current, rather than historical, cost-causation rationale. The approval of the Stipulation and use of the Revised Protocol in conjunction with Rolled-In and rate mitigation measures in this case, would modify the results, going forward, of

prior decisions to the degree those results differ from that produced from the current approved allocation method and rationale. UAE testifies that it supports these deviations from past practice in order to allow the Company a sufficient opportunity to earn its allowed return and thus be encouraged to make needed investments in infrastructure. The Division cites many benefits to Utah ratepayers of support of the Stipulation. The Committee testifies that some components of the Revised Protocol method are not cost-based and it sees no principled basis for supporting any type of permanent resource endowment for any group as the system uses the mix of resources to provide service to all customers jointly. The Committee believes the Rolled-In method is cost-based and that any deviation or increment above that for the purposes of reaching a multi-state agreement would be justified using the gradualism principle which has been used in the past by this Commission to limit rate impacts. The Committee notes adoption of the Revised Protocol, if it performs as expected, would result in a Utah revenue requirement equivalent to a Rolled-In method result in the 2012 time frame, effectively a 22-year transition to Rolled-In (starting with the 1990 order that established Rolled-In as a long-term goal). The Committee recommends that the Commission reaffirm that a traditional single-system, fully Rolled-In allocation method is the rate-making standard for determining cost causation and for evaluating whether a rate is just and reasonable.

As previously discussed, the Commission established the traditional Rolled-In method as the goal for interjurisdictional allocations fourteen years ago. The Rolled-In method and current cost-causation rationale was adopted in Utah in a 1997 case following lengthy, comprehensive proceedings and was reaffirmed by use in each rate case since then. The Revised

Protocol is similar to Rolled-In, but differs in several ways. For example, the Revised Protocol makes ad hoc adjustments, such as the hydro adjustments, to the Rolled-In method to reach a multi-state resolution based on testimony in this case.

We note the Company=s testimony that a gap in cost recovery has occurred at some time over the fifteen years since the Utah Power and PacifiCorp merger. We conclude that what has changed is the nature of the problem. The problem today has the potential to expand beyond the previous cost recovery gap, that was expected to decline, and threatens the continued least-cost single system planning and operation that has in the past provided significant benefits. The Load Growth Issues paper offers evidence of continued benefits of single system planning and operation. We recognize the problem articulated by the parties and find it important to work with the Company=s other states to find an equitable resolution that will provide the Company the confidence to make needed investments in infrastructure and continue least-cost single system planning and operation. We find the Stipulation=s use of Rolled-In and rate mitigation measures together with the Revised Protocol, which was unopposed at the hearing, is a reasonable resolution of the problem and with the protective conditions, will provide just and reasonable rates for Utah customers. We find that the principle-based, Rolled-In allocation method and current cost-causation, previously approved by this Commission, remains a valid benchmark to judge the reasonableness of future rates in Utah and will require the Company to continue to file Rolled-In results.

**E. Class Cost of Service**

Regarding the issue of the impact of the Stipulation and the Revised Protocol on customer classes, the Committee, PacifiCorp and UAE agree the record in this docket is not fully developed on this issue and the Order in this case should not try to resolve it. We concur. We further conclude the Revised Protocol only addresses interjurisdictional cost allocation which means class cost of service will be dealt with in other dockets such as general rate cases.

## VII. ORDER

Wherefore, pursuant to our discussion, findings and conclusions made herein, we order:

1. The Stipulation and its use of the Revised Protocol and Rolled-In methods in conjunction with the rate mitigation measures is approved for use in determining Utah=s jurisdictional revenue requirement, subject to the conditions described in the Discussion, Findings and Conclusions section of this order.
2. PacifiCorp shall continue to file in Utah its semi-annual results of operations using the Rolled-In method and shall continue to maintain all data necessary to calculate its Utah revenue requirement using this method.

This Report and Order constitutes final agency action on PacifiCorp=s November 3, 2003, Application. Pursuant to U.C.A. ' 63-46b-13, an aggrieved party may file, within 30 days after the date of this Report and Order, a written request for rehearing/reconsideration by the Commission. Pursuant to U.C.A. ' 54-7-15, failure to file such a request precludes judicial review of the Report and Order. If the Commission fails to issue an order within 20 days after the filing of such request, the request shall be considered denied. Judicial review of this Report

and Order may be sought pursuant to the Utah Administrative Procedures Act (U.C.A. ' ' 63-46b-1 et seq.).

DATED at Salt Lake City, Utah, this 14th day of December, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#41944

APPENDIX E

# Appendix E

# Wyoming PSC, Record No. 7395

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

| | | |
|---|---|---|
| IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION OF INTERJURISDICTIONAL ISSUES REGARDING THE BUSINESS REORGANIZATION OF PACIFICORP AND RELATED MATTERS | ) ) ) ) ) ) ) | Docket No.20000-EI-02-183 (Record No. 7395) |

APPEARANCES

For the Applicant PacifiCorp:
RICHARD D. BUSH of Hickey & Mackey, Cheyenne, Wyoming

For the Intervenor Office of Consumer Advocate:
CHRISTOPHER B. PETRIE, Senior Attorney, Cheyenne, Wyoming.

For the Intervenor AARP:
DALE W. COTTAM of Hirst & Applegate, Cheyenne, Wyoming.

For the Intervenor Wyoming Industrial Energy Consumers (WIEC):
WALTER F. EGGERS, III, of Holland & Hart, Cheyenne, Wyoming.

HEARD BEFORE

Chairman ROB HURLESS
Deputy Chair STEVE FURTNEY
Commissioner KATHLEEN A. LEWIS
Chief Counsel STEVE OXLEY presiding
pursuant to a Special Order of the Commission

ORDER APPROVING AND RATIFYING
REVISED PROTOCOL AND STIPULATION
(Issued March 2, 2005)

This matter is before the Wyoming Public Service Commission (Commission) on the application of PacifiCorp for ratification by the Commission of a Revised Protocol (the Protocol) and a Wyoming-specific Stipulation and Agreement (the Stipulation) which, without limiting the jurisdiction and discretion of the Commission to act in the public interest, are intended to provide fair and consistent treatment of PacifiCorp interjurisdictional allocation issues in Wyoming, and on the interventions of the Office of Consumer Advocate, WIEC, and AARP. The Commission, having heard the testimony and reviewed the exhibits in this case, having reviewed the record and its files concerning PacifiCorp, applicable Wyoming utility law, and being otherwise fully advised in the premises, HEREBY FINDS AND CONCLUDES:

## Procedural Matters

1. PacifiCorp provides electric public utility service at retail to customers in Wyoming, California, Idaho, Oregon, Utah, and Washington. It serves in Wyoming under certificates of public convenience and necessity granted by the Commission.

2. On March 7, 2002, PacifiCorp filed PacifiCorp's Application to Initiate Investigation of Interjurisdictional Issues Effecting It, asking the Commission to initiate an investigation of interjurisdictional allocation issues and to endorse a multi-state process (MSP) in which these issues could be considered by all of the jurisdictions in which PacifiCorp provides retail electric utility service. The Application described a number of interjurisdictional issues confronting PacifiCorp, including, among others, the lack of consensus among the jurisdictions regulating the company as to [i] how its generation and transmission assets should be allocated, [ii] how it should meet load growth by adding resources, [iii] who should bear the cost of new resource additions, and [iv] what resources should be added. PacifiCorp argued that this situation hampered sound, long term planning and investment decisions needed if its customers were to be served. PacifiCorp also found a lack of certainty that it would be able to recover the cost of necessary investments over the life of the new assets. It described a process whereby PacifiCorp, the state jurisdictions and other stakeholders would meet and try to reach agreement on how to solve these problems.

3. On April 1, 2002, the Commission issued its Order Initiating Investigation in Docket No. 20000-EI-02-183 and Staying Proceedings in Docket No. 20000-EA-00-161, beginning the Commission's formal involvement in the MSP and staying the consideration of PacifiCorp's strategic realignment proposal (SRP) pending the outcome of further work on the MSP. In this order, the oral motions to intervene by the Wyoming Industrial Energy Consumers and the Commission's Consumer Advocate Staff were granted.

4. Notice of this potential involvement of the Commission in the MSP, with an invitation to the public to participate, was published in the Casper Star-Tribune and the Uinta County Herald. It was broadcast by radio on KTWO-AM in Casper, Wyoming, KEVA-AM, in Evanston, Wyoming, and on KUWR-FM in Laramie, Wyoming.

5. After receiving reports from PacifiCorp, WIEC and the Consumer Advocate Staff on the initial April 10-12, 2002, MSP meeting, the Commission issued its April 22, 2002, Order Setting Public Hearing on Further Participation by Wyoming in the PacifiCorp Multi-State Process "to provide for a formal evaluation of the value of Wyoming's participation in the MSP" The public hearing was set for May 2, 2002, at the Commission's hearing room in Cheyenne, Wyoming, and was held at that time. Notice of the public hearing was published in the Casper Star-Tribune, the Cody Enterprise, and the Uinta County Herald. It was broadcast by radio on KTWO-AM in Casper, Wyoming, KODI in Cody, Wyoming, KEVA-AM, in Evanston, Wyoming, and on KUWR-FM in Laramie, Wyoming.

6. On April 23, 2002, PacifiCorp filed its Motion for Protective Order; and, on May 14, 2002, the Commission issued its Order on Motion for Protective Order, setting forth the procedure to be used for the use and treatment of confidential information in this case.

7. On May 14, 2002, the Commission issued its Order on Further Participation by Wyoming in the PacifiCorp Multi-State Process, deciding to continue participation in MSP and directing its staff to report to the Commission after a further meeting of MSP participants and to make recommendations about further Commission participation in MSP.

8. On June 5, 2002, the Commission issued a Letter Order stating that further participation in the MSP was shown to be justified in the public interest and that the participation of Wyoming in the MSP "shall continue pending further order of the Commission."

9. On May 20, 2003, the Office of Consumer Advocate entered an appearance in this matter and moved to be substituted for the Consumer Advocate Staff as a successor party. On May 27, 2003, the Commission issued its Order Authorizing Substitution of Party and Appearance of Counsel, granting the motion.

10. On September 30, 2003, PacifiCorp filed a Motion for Ratification of Inter-Jurisdictional Cost Allocation Protocol, together with the text of the "PacifiCorp Inter-Jurisdictional Cost Allocation Protocol" and supporting prepared direct testimony and exhibits of Andrew N. MacRitchie, Andrea L. Kelly, Gregory N. Duvall, and David L. Taylor.

11. On October 17, 2003, the Commission issued its Notice and Order Setting Consolidated Pre-Hearing Conference to develop a procedural schedule for proceedings to consider PacifiCorp's proposed interjurisdictional cost allocation protocol derived from information developed during the MSP. The pre-hearing conference was scheduled for November 12, 2003.

12. Notice of the pre-hearing conference was published in the Casper Star-Tribune, the Cody Enterprise, and the Uinta County Herald. It was broadcast by radio on KTWO-AM in Casper, Wyoming, KODI in Cody, Wyoming, KEVA-AM, in Evanston, Wyoming, and on KUWR-FM in Laramie, Wyoming.

13. The pre-hearing conference was held on November 12, 2003, with counsel for PacifiCorp, the Office of Consumer Advocate and WIEC participating. At the pre-hearing conference, the parties informed the Commission that work was progressing toward agreement among the states on various critical issues necessary to a final form of Protocol. They urged the Commission not to set a hearing until the work had concluded satisfactorily.

14. On February 3, 2004, the Commission issued its Notice and Order Setting Public Hearing and Procedural Schedule, which set a public hearing on the request of PacifiCorp for ratification of a new interjurisdictional allocation protocol, for July 27, 2004.

15. Notice of the public hearing was published in the Casper Star-Tribune, the Cody Enterprise, and the Uinta County Herald. It was broadcast by radio on KTWO-AM in Casper, Wyoming, KODI in Cody, Wyoming, KEVA-AM, in Evanston, Wyoming, and on KUWR-FM in Laramie, Wyoming.

16. On April 26, 2004, PacifiCorp filed a letter request that the procedural schedule in this case be vacated because PacifiCorp and the other parties to this case, as well as the parties to the similar MSP cases going forward in other states in which PacifiCorp serves, were working on a new resolution of PacifiCorp's interjurisdictional cost allocation issues. PacifiCorp offered that it would file on May 26, 2004, a revised MSP solution either supported by the Wyoming parties to the above-captioned case or sponsored by PacifiCorp only. It requested that the parties not be required to respond to its September 2003 filing (i.e., the originally proposed version of the Protocol) until further notice. On May 5, 2004, the Commission issued its Order Vacating Procedural Schedule, granting PacifiCorp's letter request.

17. On June 1, 2004, the Commission issued its Order Establishing Pre-Hearing Procedural Schedule and Setting Pre-Hearing Conference, giving PacifiCorp additional time to June 22, 2004, to file a revised MSP solution and setting the pre-hearing conference for July 8, 2004.

18. By its Letter Order of June 22, 2004, the Commission extended PacifiCorp's deadline for filing a revised solution to June 30, 2004.

19. On July 1, 2004, PacifiCorp filed supplemental testimony and exhibits of Andrea L. Kelly, Gregory N. Duvall and David L. Taylor, including a revised form of PacifiCorp Inter-Jurisdictional Cost Allocation Protocol and its appendices (collectively, the Protocol), consisting of:

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|---|---|
| The Protocol in current (revised) form | sponsored by Kelly |
| Appendix A - Defined Terms | sponsored by Kelly |
| Appendix B - Allocation Factor Applied to Each Component of Revenue Requirement | sponsored by Taylor |
| Appendix C - Allocation Factors/Algebraic Definitions/June 30, 2004 | sponsored by Taylor |
| Appendix D - Special Contracts | sponsored by Taylor |
| Appendix E - Annual Embedded Costs/ Example Calculation | sponsored by Taylor |
| Appendix F - Methodology of Determining Mid-C (MC) factor | sponsored by Duvall |

20. On July 7, 2004, the Commission issued a Special Order Authorizing One Commissioner and/or Hearing Examiner to Conduct Public Hearing regarding the pre-hearing conference to be held on July 8, 2004.

21. Pursuant to due notice, the pre-hearing conference was held at the Commission's offices in Cheyenne, Wyoming, on July 8, 2004, with counsel for PacifiCorp, WIEC, and the Office of Consumer Advocate participating. The Commission established a procedural schedule, set discovery parameters and invited AARP, with the consent and agreement of all parties, to move to become a party to this case.

22. On July 28, 2004, the Commission issued an Order Authorizing Intervention, granting the AARP's July 22, 2004, petition to intervene in this case, whereupon AARP became a party for all purposes in this proceeding.

23. On July 29, 2004, the Commission issued its Pre-Hearing Conference Order, *inter alia*, setting the public hearing in this case for October 19, 2004, at its hearing room in Cheyenne, Wyoming.

24. Notice of the public hearing was published in the Casper Star-Tribune, the Laramie Daily Boomerang, the Rock Springs Rocket-Miner, the Northern Wyoming Daily News in Worland and the Uinta County Herald in Evanston. It was broadcast by radio on KTWO-AM in Casper, Wyoming, KSIT in Rock Springs, Wyoming, KWOR-AM in Worland, Wyoming, and KEVA-AM, in Evanston, Wyoming.

25. On September 8, 2004, PacifiCorp, the Office of Consumer Advocate, WIEC and AARP filed a Stipulation and Agreement (the Stipulation) with the Protocol and its Appendix A, Defined Terms, attached.

26. On September 24, 2004, the Office of Consumer Advocate filed the prepared direct testimony of Denise K. Parrish with Parrish/Joint Exhibit One consisting of the Stipulation and the Protocol with all attached Appendices. This exhibit is attached to this order and identified as Exhibit A hereto.

27. On October 14, 2004, the Commission issued a Special Order Authorizing One Commissioner and/or Hearing Examiner to Conduct Public Hearing regarding the pre-hearing conference to be held on October 19, 2004.

28. On October 15, 2004, counsel for PacifiCorp informed the Commission that Andrea Kelly would adopt the original testimony of Andrew MacRitchie in this case.

29. On October 19, 2004, the public hearing in this case was held at the Commission's hearing room in Cheyenne, Wyoming, with PacifiCorp, the Office of Consumer Advocate, WIEC and AARP appearing and participating. PacifiCorp supported the Protocol and the Stipulation through the oral testimony of Andrea Kelly, Gregory Duvall and David L. Taylor. The Office of Consumer Advocate presented its case through the testimony of Denise K. Parrish. All witnesses supported the Protocol and the Stipulation and urged the Commission to approve and ratify them. During the hearing, PacifiCorp's September 30, 2003, direct testimony and exhibits were received into the record (Transcript of October 19, 2004, public hearing, hereinafter Tr., p. 80) and the supplemental PacifiCorp testimony and exhibits filed on July 1, 2004, were also received into the record. (*Id.*) At the close of the case, the Commission deliberated and made a bench decision approving the Protocol and the Stipulation. The Commission directed the preparation of an order consistent therewith.

30. On November 8, 2004, PacifiCorp filed a Motion to Dismiss Without Prejudice, seeking dismissal of the SRP case in Docket No. 20000-EA-00-161.

31. On November 19, 2004, the Commission entered its Order Dismissing Application, dismissing the companion SRP case in Docket No. 20000-EA-00-161 without prejudice.

Positions of the Parties: Office of Consumer Advocate

32. Denise K. Parrish, Deputy Administrator of the Office of Consumer Advocate, testified in support of the Stipulation. Parrish described the history of the efforts of PacifiCorp and the states in which it serves to come to agreement on a fair and workable interjurisdictional allocation methodology, tracing the 1990 post-merger consensus, the PacifiCorp Interjurisdictional Task Force on Allocations (PITA) Accord, the movement of Utah to a rolled-in allocation methodology, and the subsequent efforts, in this proceeding and in the other jurisdictions, to work together to reach agreement on a new interjurisdictional allocation methodology. (Tr., pp. 12-15.) Parrish described PacifiCorp's 2000 SRP which would have addressed the problem by creating individual distribution companies in each state, a transmission company and a generation company. SRP was not received as an acceptable solution by the states, and this led to the formation of a MSP to bring PacifiCorp, the states and other interested parties together to work on a solution. MSP identified four issues which would have to be resolved if a new interjurisdictional allocation method were to emerge. These included:

a. Retail load growth in Utah. States without this level of growth have been reluctant to retain responsibility for PacifiCorp costs related to disproportionate load growth in Utah.

b. The disposition of PacifiCorp's hydroelectric generation resources and the concept of allocating these resources specially to Oregon and Washington.

c. Prevention of abrupt cost shifts between jurisdictions which might arise from successfully addressing the hydroelectric resource and load growth issues.

d. Crafting an interjurisdictional allocation agreement which would be capable of being sustained for a reasonable period of time -- four to six years or longer. (Tr., pp. 16-19.)

33. Parrish explained her view of the interjurisdictional allocation agreement recommended for favorable Commission action. This agreement, the Protocol (Protocol), expresses "in common language" the consensus of the states and PacifiCorp working together to agree on a new allocation methodology. The related Stipulation presented in this case explains some Wyoming party views of the Protocol and contains specific unique Wyoming provisions. Under the Protocol, PacifiCorp will plan on an integrated basis. However, "if individual states want to look at different sets of resources, then [sic] come out of the integrated plan." Costs allocated to a state under the Protocol remain subject to prudence review and possible disallowance. The Protocol could be changed based on a sufficient rationale and not simply abrogated; and it will govern rate cases beginning June 1, 2004, including pass-ons in which rates are adjusted. General demand (75%) and energy (25%) allocations remain the same. Resources will be classified as "seasonal resources, regional resources, state resources and system resources." Contracts made to meet peak needs will be classified as seasonal. The Protocol gives each state an allocation of hydro resources with a larger proportion going to

Oregon and Washington. State resources include demand side management programs and Qualifying Facilities. Coal plants and most of the rest of the PacifiCorp system will be allocated among the six PacifiCorp states based on the state's proportions of demand and energy on the system. Resources would be acquired on a least-cost, least-risk basis, meaning that a least cost generating asset such as a gas turbine might not be a least-risk asset because of the volatility of gas prices. The Protocol produces a Standing Committee to deal with the issue of higher growth rates and ensuring that each state has responsibility for its own share of growth costs. It provides a 5% load growth or loss threshold, with changes of less than 5% being dealt with under the normal working of the Protocol, and with larger changes triggering an individual examination of the situation. Parrish noted that this had relevance to Wyoming because one of PacifiCorp's larger industrial customers was seeking to develop self-generation capabilities. Transmission will be a system cost and distribution costs are state costs allocated on a situs basis to the states. The Protocol allows administrative and general costs to be allocated with "appropriate" allocators being assigned for each such account (e.g., billing expenses allocated on the basis of the number of bills generated for a state). Parrish assured the Commission that the Protocol would not cause the Commission to give up any of its regulatory prerogatives going forward, and the move toward rate parity between eastern and western Wyoming may continue unhampered. (Tr., pp. 19-26, 63 and 66-69.)

34. Parrish noted that the Protocol's signatory states will work together to ensure against over allocation. The Protocol thus addresses the situation in which the ratepayers of the PacifiCorp states ended up with credits totaling more than 100% of the gain on the sale of the Centralia plant. The Protocol includes provisions for dealing with customer choice programs in PacifiCorp jurisdictional states should they develop beyond the limited program in Oregon. Parrish testified that prudent investments would, under the Protocol, be met with "normal rate making principles" which would apply to PacifiCorp's recovery and provide it with a measure of certainty. (Tr., pp. 25-26.)

35. Parrish stated that the Protocol calls for a Standing Committee of the six states to provide a forum for the discussion of allocation issues. She urged the Commission to participate in the Committee's work and to do so through a staff member to preserve the Commissioners' impartiality in case a Protocol issue comes before the Commission in hearing. Parrish clarified the intent of the Protocol developers not to make the Committee a multi-jurisdictional forum for formal dispute resolution but to provide an informal forum for monitoring the Protocol and its functioning. The first two issues for the Committee are the appropriateness of [i] allocations relative to load growth and [ii] the seasonal resource designation. The Protocol also sets up a process for informal resolution of issues by the states. (Tr., pp. 26-29.)

36. The Stipulation, directly affecting Wyoming and this case, includes PacifiCorp's agreement to provide data to the Commission and parties for the next ten years comparing the current and proposed allocations processes to provide a method by which the accuracy and continued viability of the process may be examined. According to Parrish, the impact of the Protocol should, over fifteen years on a net present value basis, be almost nil. She also noted that, over the first three to four years, Wyoming should experience a positive benefit. She stated that the Office of Consumer Advocate was "very comfortable that there is a way to monitor this, and that Wyoming customers are not . . . going to get a [negative experience] out of this."

Parrish stated that the process encouraged PacifiCorp to examine the use of "hard assets" in providing generation rather than simply relying on "leases and contracts." She later explained that the unallocated PacifiCorp plant, based on the use of divergent interjurisdictional allocation methods, started at approximately $50 million and persisted sufficiently that PacifiCorp was reluctant to engage in a large capital program with regulators allocating less than 100% of the company's assets. She recommended the agreement as being in the public interest. She noted that ratification by Wyoming, Utah, Idaho and Oregon would be required before the agreement could go into effect, but did not believe the Commission needed to ratify conditionally because the agreement by its terms would not go into effect unless ratified by the four states. (Tr., pp. 29-31, 53-54 and 65.)

37. Parrish stated that the loss of a large load would not negatively impact Wyoming customers because the assets which were allocated to Wyoming to serve that load would simply be reallocated in the next rate case. Similarly, in a poor hydro year, the cost of replacing hydroelectric generation would be allocated to the system. She noted that some issues, such as, for example, how additional wind resources would be dealt with if their enhancement was desired by a single state, would be reserved for later consideration by the Standing Committee should the need arise. Similarly, a single-state demand side management program would probably continue to be paid for in that state. The agreement to withdraw the SRP case, Parrish confirmed, was supported by all parties to this case; and the concerted effort of the participating states means that the Protocol would not be abandoned lightly. Some of the work consisted of reaching consensus among energy-dependent states (such as Oregon and Washington) and more "demand-driven" states (such as Wyoming, Utah and Idaho) as they deal with changing peaking characteristics. (Tr., pp. 32-42 and 52-53.)

38. Parrish testified that special contracts would be dealt with differently. If a contract embodies a state's desire to retain an industry, the cost should be borne by that state, whereas another contract, e.g., with an industrial customer to reduce its load to the benefit of the entire system, would be a system resource. She noted that other states allowed PacifiCorp customers exceptions to continue to use special contracts while Wyoming customers migrated onto tariffs and did not identify this as an allocation problem. (Tr., pp. 43-44.)

39. Parrish noted that the stipulation reached by the parties to Docket No. 20000-EP-04-211, in which PacifiCorp was allowed to pass-on certain wholesale power costs, took the instant case into consideration and provided Wyoming customers with an immediate benefit based on the Protocol. (Tr., p. 46.) It is a benefit that is not dependent on the filing of a general rate case.

Positions of the Parties: PacifiCorp

40. Andrea Kelly, Managing Director, Strategic Projects, testified for PacifiCorp. She stated that the Protocol has been supported in an all-party stipulation in Utah which was subject to a rate impact mitigation plan that caps the impact of the Protocol for four years and for three years thereafter includes a small rate premium. Similarly, the Protocol received support in Idaho and, to a lesser extent, in Oregon. Some support for employing the original Protocol, and later the revised Protocol, also coalesced in Washington. California did not participate in the

process outside of a monitoring role. In all, this constituted significant progress in reaching agreement and bringing the Protocol into play as an interjurisdictional allocation tool. (Tr., pp. 81-86.)

41. Kelly testified that the Protocol is a fair method of allocating costs among the retail jurisdictional states. She stated that the strength of the Protocol lay in its provisions addressing the question of entitlement to hydroelectric generation assets, disparities in growth rates among the jurisdictions, the "recognition of state-specific energy policies," the balanced rate impacts from the Protocol and the provisions to encourage its sustainability. She noted that Wyoming would be among the former Pacific Power & Light states to benefit from company-owned hydro resources. The Mid-Columbia contracts, also hydro resources to the company, would be reflected in rates in the modeling of PacifiCorp's costs which included 50-year average water conditions. Kelly expected that a request by PacifiCorp to recover actual costs under these contracts, "a unique circumstance," would cause the parties to evaluate the fairness of the way such costs were allocated. Wyoming would bear a lesser share of Qualifying Facilities (QF) contract costs in part reflecting the historically low level of QF activity in Wyoming. Kelly stated that differing rates of load growth in the jurisdictional states would be handled fairly in recognition of existing factors influencing growth and the cost of growth, but also noted that the agreement would allow the issue to be monitored in the future to make certain that such costs continue to be recognized fairly and accurately in the future, taking into account then currently available information. In forming the Protocol, the parties sought to mitigate disparate impacts, including entering mitigation agreements "at the company's expense" with states in which the impact of the Protocol would fall most heavily in the earlier years. She found that the continued viability of the Protocol would also be improved by the Standing Committee which is capable of dealing with issues as they arise. She acknowledged that the Protocol did not actually resolve all issues, and that this represented a risk to PacifiCorp, but it was a risk the company was willing to take, given that the Protocol set out a fair method of examining and dealing with such questions. She also acknowledged that PacifiCorp would retain the burden of proving its case before the individual regulatory commissions affected by such issues. (Tr., pp. 86-93, 100 and 110-111.)

42. Kelly described the PacifiCorp view of the benefits to Wyoming from the Protocol. Common allocation of plant, continued company-wide integrated planning and the ability to do least cost planning for new resources and transmission needs in a stable environment were important to her, as was the facilitation of PacifiCorp's continued access to financial and commercial trading markets "by a healthy utility." She stated regarding keeping the ". . . efficiencies of the six-state system, . . . we were able to qualify those somewhere in the 2 to $300 million range over study period of about 15 years, . . . ." The Protocol also gives PacifiCorp the ability to work with the individual states on their policy initiatives ". . . while mitigating the impact of those state policy initiatives on the other states." The Protocol also addresses some of the possible effects of the formation of a Regional Transmission Organization (RTO) and recognizes that it must play an important role should such an organization be formed. The Protocol, while eliminating some differences between the states and the FERC regarding transmission plant, does not adopt the classification of 100% demand and 0% energy. The Protocol makes no prejudgment on the subject. (Tr., pp. 93-95 and 146-148.)

43. Gregory Duvall, PacifiCorp's Managing Director, Planning and Major Projects, testified that the study period for identifying these benefits was FY 2005 through FY 2018, and that the GRID model was employed with hypothetical Utah Power and Pacific Power divisions. The sum of these studies was approximately $200 to $300 million higher than the integrated PacifiCorp system in net present value. The savings came from the ability to move power between the winter peaking western portion of the system and the summer peaking eastern part, lessening the requirement for resources. Duvall also testified that the "flatter load pattern" (i.e., higher load factor) characteristic of Wyoming would result in a smaller share of costs coming to Wyoming under a seasonal allocation of system resources than would be the case if an annual allocation were to be continued. (Tr., pp. 116-118.)

44. Kelly testified that:

> "The added benefits of the Wyoming stipulation, we've codified the -- the expectation that the parties will support the Revised Protocol as long as it continues to produce fair and just and reasonable results in their opinion and the company will continue to file its cases using the Revised Protocol. As you see in the Revised Protocol, we -- the company has unilaterally agreed to a six-month notice provision if we were to consider any changes of the Revised Protocol and bring those amendments to the standing committee as -- as needed." (Tr., p. 95.)

She stated that PacifiCorp stipulated to additional monitoring and reporting requirements to continue to assess the usefulness of the Protocol and noted that the Standing Committee was not intended to usurp the jurisdiction of the states to make decisions regarding PacifiCorp but that its work would have to be evaluated by regulators in an open public forum. (Tr., pp. 95-96.)

45. David L. Taylor, PacifiCorp's Director, Revenue and Cost of Service, confirmed the PacifiCorp position that the Protocol would encourage long-term investment in generation and transmission resources by providing "some certainty of being able to recover our capital costs, . . . ." Concurrently, it would assist PacifiCorp in gaining access to capital markets for long term generation and transmission projects. Taylor put these costs into perspective, finding that a 100 basis point increase in equity costs would increase expenses to PacifiCorp by about $55 to $60 million. He assured the Commission that the other states approving the Protocol made no material changes to it in the process. He noted that Wyoming was considered as two jurisdictions under the Protocol only for the purpose of making a divisional allocation of hydro resources, and that, for rate making purposes, the results were rolled together before costs were apportioned among classes, reaffirming PacifiCorp's commitment to the east-west parity plan for Wyoming rate payers. (Tr., pp. 120-121, 130 and 145-146.)

46. Kelly expressed her hope that the Protocol could withstand good faith challenges. She said:

> "I think the stipulations that we've entered into in the states help to set forth under what conditions those challenges could occur, and that is if a party concludes that the Revised Protocol no longer produces fair, just and reasonable results, using, as one basis of comparison, the forecasts that their support has been predicated on in this proceeding. It doesn't mean that folks won't look at what is driving differences, but I think it's -- it's a metric against which we can see whether it's performing as expected. So I think we have alleviated some of those concerns by -- again, we talked about sort of the good faith commitment of parties

to the principles behind the Protocol and good faith of a commitment to try to work to amend the Protocol rather than to -- than to completely abandon it." (Tr., pp. 151-152.)

She clarified PacifiCorp's expectation that parties to rate cases would raise challenges to underlying costs and their prudence. This would not, in her opinion, constitute a challenge to the Protocol itself. (Tr., p. 152.)

Positions of the Parties: WIEC and AARP

47. Counsel for WIEC stated at the outset of the hearing that WIEC supported the Stipulation and thanked the parties for their work, specifically thanking the Office of Consumer Advocate and Denise Parrish for their work of many years on the subject. (Tr., p. 8.)

48. Counsel for AARP stated that it entered into the Stipulation and asked the Commission to approve it at the conclusion of the public hearing. When the hearing concluded, counsel for AARP renewed his request that the Commission approve the Stipulation. (Tr., pp. 8 and 154.)

49. At the end of the public hearing, counsel for PacifiCorp, the Office of Consumer Advocate and AARP urged the Commission to approve the stipulation, the Protocol in its revised form and related supporting documentation, all terming it to be in the public interest to do so. (Tr., pp. 153-154.)

Legal Standards

50. W.S. § 37-3-101 requires that "[a]ll rates shall be just and reasonable, and all unjust and unreasonable rates are prohibited." Similarly, W.S. § 37-3-112, requires that "[t]he service and facilities of every public utility shall be adequate and safe . . . ." W.S. § 37-2-121 summarizes the basic characteristics of acceptable public utility rates in Wyoming:

> "If upon hearing and investigation, any rate shall be found by the commission to be inadequate or unremunerative, or to be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential or otherwise in any respect in violation of any provision of this act, the commission may fix and order substituted therefor such rate as it shall determine to be just and reasonable and in compliance with the provisions of this act."

51. W.S. § 37-2-117 gives the Commission broad powers of investigation to secure compliance with Wyoming utility law, and states that the Commission may initiate an investigation "of its own motion." Finally, W.S. § 37-2-114 allows the Commission to confer with the commissions of other states on public utility issues.

52. The Commission has broad powers to inquire into the facts surrounding the determination of rates, including, under W. S. § 37-2-119, the power to consider "all matters affecting or influencing such cost or value, the operating statistics for any public utility both as to revenues and expenses and as to the physical features of operation . . . ." In accord is W.S. § 37-2-122.

53. The Wyoming Administrative Procedure Act, at W.S. § 16-3-107 sets parameters for due process in Commission cases, including the giving of reasonable notice. In accord are W.S. §§ 37-2-201, 37-2-202, and 37-3-106. *See also*, Sections 106 and 115 of the Commission's Rules.

54. The public interest must come first in our decisions; and, as the Wyoming Supreme Court has stated, the desires of the utility are secondary to it. *Mountain Fuel Supply Company v. Public Service Commission*, 662 P.2d 878 (Wyo. 1983). Construing W. S. § 37-3-101, which requires rates to be reasonable, the Court in *Mountain Fuel, supra*, at 883, commented that:

> "This court cannot usurp the legislative functions delegated to the PSC in setting appropriate rates, but will defer to the agency discretion so long as the results are fair, reasonable, uniform and not unduly discriminatory."

Later, 662 P.2d at 885, the Court in *Mountain Fuel* observed that:

> "We agree that if the end result complies with the 'just and reasonable' standard announced in the statute, the methodology used by the PSC is not a concern of this court, but is a matter encompassed within the prerogatives of the PSC."

In accord are *Great Western Sugar Co. v. Wyo. Public Service Comm'n and MDU*, 624 P.2d 1184 (Wyo. 1981); and *Union Tel Co. v. Public Service Comm'n*, 821 P.2d 550 (Wyo. 1991), wherein the Supreme Court stated, 821 P.2d at 563, that it ". . . has recognized that discretion is vested in the PSC in establishing rate-making methodology so long as the result reached is reasonable."

55. The Commission may approve a stipulation or agreed upon settlement as a means of disposing of any matter coming before it at hearing pursuant to Commission Rule Section 119.

Further Findings of Fact

56. Both our review of the Stipulation, the Protocol and its Appendices and the evidence in this case show us that the parties have, with the Revised Protocol, the Stipulation and the related documentation, done hard and thoughtful work for Wyoming and PacifiCorp's other retail jurisdictions, to achieve agreement on a new, positive and workable approach to interjurisdictional allocation. The agreement overall is not perfect in itself and wisely does not attempt to solve all of the potential problems which might arise. There are many tasks remaining for PacifiCorp and the states, but the agreement recognizes this and provides constructive mechanisms to solve problems and dispose fairly of issues as they arise in the future, i.e., the Standing Committee, the work groups and the carefully thought out general guidance of the Protocol. It has been very carefully drafted to allow for the concurrence of a number of parties which have not always been in agreement in the past. This careful draftsmanship also recognizes that the economies of the six states served by PacifiCorp and their energy needs are dynamic and complex, all of which is reflected in the ongoing Standing Committee and work groups provided for.

57. In ratifying the Protocol, we are not giving up the Commission's power to act in the interests of Wyoming. We will be able to continue to discharge our traditional responsibilities and meet our obligations, and we hope it can be done within the context of the Protocol. In any event, we retain the ability to ensure that the result for Wyoming ratepayers is just, reasonable and non-discriminatory as we are charged by law. No aspect of the Commission's discretion has been abridged or abandoned. It appears that we now will have a more meaningful way to work on PacifiCorp-related issues confronting Wyoming and the other retail state jurisdictions. The information sharing aspects of the agreement, especially as set forth in the Stipulation, show us that needed data will continue to be available to us to assist in the decision making process.

58. The agreement overall is fair to PacifiCorp. It provides a much needed increase in the stability of the environment in which it must plan and build over the long term to serve the needs of its customers. This stability allows longer range planning, a stronger company financial outlook, better access to financial markets at hopefully more reasonable rates, and promotes the operation of the PacifiCorp system as a more efficient whole. PacifiCorp will again be in the position of having a reasonable opportunity to earn a fair return on *all* of its assets serving the public rather than on a lesser portion. A certain loss situation has been replaced with the reasonable risks traditionally associated with proving a case in a regulatory context. PacifiCorp now has a more reasonable assurance of consistent treatment by the state jurisdictions which will promote rational resource planning and needed capital investment.

59. The evidence in this proceeding shows us that Wyoming is getting and will in the future get its fair share of the benefits from the agreement, some of which have already been realized in other proceedings before the Commission. (See the Commission's Order Approving Stipulation issued on November 3, 2004, in Docket No. 20000-EP-04-211, ¶¶ 18, 20 and 30.) Wyoming's position in the MSP has received fair consideration, and the evidence of the parties to this proceeding confirm this. There is no indication that the words of the Commission, the Office of Consumer Advocate, the AARP, WIEC and others participating in the process have gone unheard.

60. The exhaustive work done in the MSP process has achieved another remarkable result made doubly remarkable in this time when uncertainty and the "transitional" nature of the electric power industry has made planning and investment sluggish and problematic throughout the western interconnection. That result is the ability of the participants to say that they intend to rely on each other's good faith for the continued viability and success of the Protocol in the future. This bespeaks an understanding that the differences among the parties and among the states are not eradicated by the Protocol but that they are understood by parties willing to work together-- a necessary precursor to future success. Although, the Protocol remains voluntary and the participants are not compelled to continue, we express the hope that they will work constructively with the Protocol to realize the benefits it is capable of creating.

Conclusions of Law

61. PacifiCorp is duly authorized by the Commission to provide retail electric public utility service in its Wyoming service territories under certificates of public convenience and

necessity issued and amended by the Commission. PacifiCorp is an electric public utility as defined in W. S. § 37-1-101(a)(vi)(C); and, as such, pursuant to W. S. § 37-2-112, the Commission has the general and exclusive jurisdiction to regulate PacifiCorp as a public utility in Wyoming.

62. Proper public notice in this case was given as needed and in accordance with the Wyoming Administrative Procedure Act, W.S. §§ 37-2-120, 37-2-201, 37-2-202 and the Commission's Rules. The public hearings were held and conducted pursuant to the provisions of W. S. §§ 16-3-107, 16-3-108, 37-2-203, and applicable sections of the Commission's Rules. The interventions of the various parties and the substitution of the Office of Consumer Advocate as a party were properly granted, and the entities which intervened became parties to the case for all purposes.

63. Public deliberations were held pursuant to W.S. § 16-4-403.

64. An incorrect or incomplete interjurisdictional allocation system could result in rates which are violative of Wyoming law. Such problems as those identified in PacifiCorp's Application and addressed in the Stipulation and the Protocol, could hamper needed investment by PacifiCorp in resources required to meet the future needs of Wyoming ratepayers. It is in the public interest that these problems be addressed and solved.

65. Based upon its review of the Protocol and the Stipulation, as well as the unanimous testimony offered in support thereof, the Commission concludes that the Protocol and the Stipulation represent a just, equitable and reasonable resolution of the issues in this proceeding. They promote a sound and workable method of determining interjurisdictional allocation.

66. We conclude that the effects of our decisions set forth in this order, when the Stipulation and the Protocol are applied accurately and sincerely by the Public Service Commission and the other PacifiCorp state regulatory commissions, will produce interjurisdictional allocations among the affected states which will promote rates that are just and reasonable and without undue discrimination among PacifiCorp's customers. Properly determined under the Protocol and Stipulation, the allocations will assist in producing fair, adequate and remunerative rates for PacifiCorp, [i] allowing it to earn a return on all of the plant and facilities used to provide service to the public; and [ii] fostering the financial stability needed for longer term investment by PacifiCorp in generation and transmission assets at a more reasonable cost.

67. The Commission's decisions set forth hereinabove are supported by virtually all of the evidence in the record of this case. The evidence is comprehensive in scope and clearly shows that the Protocol and Stipulation were produced by thoughtful and sustained effort.

68. The Commission further concludes that approval of the Stipulation and the Protocol is in the public interest.

69. Although the Commission and its staff will participate constructively in the interjurisdictional allocation process set up by the Protocol, nothing in this order may be considered as an abrogation by the Commission of its duty to continue to act in the public interest of the people of Wyoming under Wyoming law and on the evidence then before it.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. PacifiCorp's September 30, 2003, Motion for Ratification of Inter-Jurisdictional Cost Allocation Protocol is granted, but with respect to the revised version thereof filed with the Commission on July 1, 2004, by PacifiCorp, later filed as an attachment to the Stipulation herein and attached hereto and identified as Exhibit A.

2. The Stipulation, in the form attached hereto and identified as Exhibit B is approved. The parties shall strictly observe the reporting and other requirements therein and shall keep the Commission informed of any material developments which might bear on its application and continued viability.

3. Within thirty days of this order, all Confidential Information, except for any Confidential Information required to be retained by the Commission, shall be redelivered to the disclosing party, in observance of the Commission's May 14, 2002, Order on Motion for Protective Order.

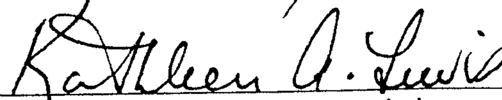
4. This order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, on March 2, 2005.

PUBLIC SERVICE COMMISSION OF WYOMING

ROB HURLESS, Chairman

STEVE FURTNEY, Deputy Chair



KATHLEEN A. LEWIS, Commissioner

(SEAL)
Attest:

STEPHEN G. OXLEY, Secretary and Chief Counsel