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VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-3398

Attn: Filing Center

RE: Docket UM 1050—Stipulating Parties’ Motion for Leave to Respond and Response to the Small Business Utility Advocates’ Objection to Stipulation

PacifiCorp d/b/a Pacific Power, Staff of the Public Utility Commission of Oregon, the Oregon Citizens’ Utility Board, the Alliance of Western Energy Consumers, and Sierra Club (collectively Stipulating Parties) encloses for filing in this docket the following document:

- The Stipulating Parties’ Motion for Leave to Respond and Response to the Small Business Utility Advocates’ Objection to Stipulation.

If you have questions about this filing, please contact Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,

A handwritten signature in black ink, appearing to read "Etta Lockey", with a long, sweeping horizontal line extending to the right.

Etta Lockey
Vice President, Regulation

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1050**

In the Matter of
PACIFICORP, D/B/A PACIFIC POWER,
Request to Initiate and Investigation of Multi-
Jurisdictional Issues and Approve an Inter-
Jurisdictional Cost Allocation Protocol.

**STIPULATING PARTIES' MOTION
FOR LEAVE TO RESPOND AND
RESPONSE TO THE SMALL BUSINESS
UTILITY ADVOCATES' OBJECTION
TO STIPULATION**

I. INTRODUCTION

Under OAR 860-001-0420, PacifiCorp d/b/a Pacific Power (PacifiCorp), Public Utility Commission of Oregon (Commission) Staff, the Oregon Citizens' Utility Board (CUB), the Alliance of Western Energy Consumers (AWEC), and Sierra Club (collectively the Stipulating Parties) file this Motion for Leave to Respond (Stipulating Parties' Motion) and Response to the Objection to Stipulation filed by Small Business Utility Advocates (SBUA) on January 14, 2020 (Objection). Good cause exists for the Commission to grant the Stipulating Parties' Motion because the Stipulating Parties would not otherwise have the opportunity to review and respond to the Objection. SBUA mischaracterizes the record in this proceeding and fails to reference any relevant prior Commission orders. SBUA's Objection also appears to mistakenly refer to issues being addressed in a different proceeding and over a year old.

II. BACKGROUND

Commission Docket UM 1050 was opened at the request of PacifiCorp in 2002. It is an ongoing proceeding before the Commission where PacifiCorp seeks approval of allocation methods developed through PacifiCorp open stakeholder process—the Multi-State Process or

MSP. The MSP is, as ordered by the Commission, open to all stakeholders, and PacifiCorp includes all stakeholders that request to be included in the MSP to the distribution list. SBUA had ample opportunity to become involved in MSP proceedings, but has failed to do so. Additionally, in accordance with the recent allocation methods approved by the Commission, PacifiCorp has convened a commissioner forum, which is a publically noticed Commission meeting to discuss the status of the MSP discussions.

On December 3, 2019, PacifiCorp filed its petition for approval of the 2020 Inter-Jurisdictional Allocation Protocol (2020 Protocol)¹ in docket UM 1050. PacifiCorp requested expedited consideration to allow for use of the 2020 Protocol following termination of the 2017 Inter-Jurisdictional Allocation Protocol, which occurred on December 31, 2019. On December 9, 2019, the Commission held a prehearing conference, and Administrative Law Judge Moser issued a prehearing conference memorandum on December 10, 2019, establishing the procedural schedule.

SBUA filed its petition to intervene on December 16, 2019, and a request for case certification to qualify for intervenor funding on January 10, 2020. SBUA had not previously sought to participate in PacifiCorp's MSP discussions or in any allocation proceeding open before the Commission prior to filing its intervention on December 16, 2019. On January 14, 2020, SBUA filed its objection to the Joint Stipulating Parties stipulation filed on December 30, 2019.

III. ARGUMENT IN SUPPORT OF STIPULATING PARTIES' MOTION

The Commission should grant the Joint Stipulating Parties motion for leave to file a reply to clarify the record in this proceeding. SBUA's Objection mischaracterizes the 2020 Protocol

¹ Exhibit PAC/101.

and the record in the proceeding without articulating any specific, substantive concerns.

Additionally, SBUA confuses matters at issue in this proceeding with those at issue in docket UM 1824. These mischaracterizations must be addressed to clarify the record in this proceeding.

The procedural schedule does not provide for the filing of a response or other process to address SBUA's Objection. SBUA appears to request a hearing only to establish additional process. The terms of the 2020 Protocol are explained in PacifiCorp's filing and the Stipulating Parties explained their support for the Stipulation and 2020 Protocol in testimony. The 2020 Protocol clearly states the proposed treatment of PacifiCorp's costs by Federal Energy Regulatory Commission account and the algebraic derivation of the allocations among the states. There is substantial information on the record already regarding PacifiCorp's filing, the 2020 Protocol, and the Stipulation that was available for SBUA to review.

SBUA provides no analytical support or analysis, and fails to provide any clearly articulated concerns. SBUA's Objection repeats assertions like "black box settlement"² and "allocation methodologies are often complex"³ as support for its request for a hearing. These statements require a response to clarify that the issues raised by SBUA have already been addressed in the record by PacifiCorp and/or the Stipulating Parties, and there is sufficient evidence on the record for the Commission to make a decision.

IV. JOINT STIPULATING PARTIES RESPONSE

A. SBUA Failed to Articulate any Specific Issue with Either the 2020 Protocol or the Stipulation in its Objection

SBUA does not raise any specific concerns or articulate any specific issue it would like the Commission to consider in a hearing. SBUA's Objection appears to request additional

² Objection at 3.

³ Objection at 2.

process simply for the sake of additional process. The clearest statement of SBUA’s argument is in the introduction of the Objection where SBUA states that “[the 2020 Protocol] involves a very large amount of money and will impact the ratepayers and as a result the Commission should have a hearing....”⁴ SBUA claims that “a fair amount of time should be spent evaluating the new Protocol Agreement, because it will have a big financial impact on all customers in each state, including small nonresidential customers which is a very large class of PacifiCorp customers in Oregon.”⁵ SBUA offers no specific concerns to support its request for more process. The Stipulating Parties understand that allocation issues are complex, but SBUA has made no effort to engage with PacifiCorp or the other Stipulating Parties to become familiar with the 2020 Protocol. In contrast, the Stipulating Parties have spent many, many hours carefully crafting and analyzing the language in the 2020 Protocol alongside numerous stakeholders from the six states in which PacifiCorp does business. The result of those negotiations is the 2020 Protocol—a document that the Stipulating Parties believe is supported by the record and is in the public interest.

1. SBUA’s assertion that the Stipulation is a “black box settlement” is not accurate and contradicted by the record in this proceeding

SBUA incorrectly characterizes the 2020 Protocol and Stipulation as a “black box settlement.”⁶ The 2020 Protocol is the exact opposite of a “black box settlement.” As SBUA acknowledges, PacifiCorp’s Petition consisted of 219 pages.⁷ The 2020 Protocol identifies the specific allocation treatment (including algebraic formulas) for all PacifiCorp accounts, and the allocation treatment is specifically outlined in section 3 of the 2020 Protocol. SBUA’s assertion

⁴ Objection at 1.

⁵ Objection at 2.

⁶ Objection at 3.

⁷ Objection at 2.

that there is a lack of transparency is entirely unfounded. SBUA mischaracterizes the substantial information in the filings and the broader docket by claiming that the 2020 Protocol is a “black box settlement.”

2. SBUA’s analysis of the 2020 Protocol raises no specific issues and inappropriately ignores evidence already on the record and the scope of the allocation method

SBUA’s expert and legal counsel had access to all of the information necessary to articulate specific concerns or issues, yet failed to provide any reasoned analysis. SBUA’s analysis of the 2020 Protocol consists of quoting isolated statements from PacifiCorp’s petition, then stating “[t]his review process takes time and should not be rushed since public policy considerations, as well as setting rates which are just and reasonable are crucial part of the function of the Commission.”⁸ SBUA, however, misunderstands the scope of the 2020 Protocol and issues before the Commission. Neither public policy considerations nor changes to rates to PacifiCorp’s customers are under consideration in this proceeding. The 2020 Protocol simply provides a mechanism to allocate costs among PacifiCorp’s various states, it does not prejudge any future ratemaking or public policy issues before the Commission.

The 2020 Protocol specifically states that “[n]othing in the 2020 Protocol is intended to abrogate any Commission’s right or obligation to : (1) determine fair, just, and reasonable rates based upon applicable laws and the record established in rate proceedings conducted by that Commission; (2) consider the effect of changes in laws, regulations, or circumstances on inter-jurisdictional allocation policies and procedures when determining fair, just, and reasonable rates; or (3) establish different allocation policies and procedures for purposes of allocating costs

⁸ Objection at 4.

and revenues within that State to different customers or customer classes.”⁹ Further, the 2020 Protocol does not bind and cannot be used to prohibit arguments that the 2020 Protocol no longer produces results that are just, reasonable or in the public interest.¹⁰ SBUA has no basis for its assertion that the Commission would be restricted in meeting its statutory obligations.

SBUA’s only support for its conclusion is a reference to the testimony of Ms. Etta Lockey where Ms. Lockey testifies that the “2020 Protocol represents a fundamental shift in how the company proposes to address inter-jurisdictional cost allocation, with the ultimate goal of moving away from dynamic allocation factors...to a cost-allocation protocol with fixed allocation factors for generation resources and state specific resource portfolios.”¹¹ SBUA’s conclusion is incorrect as discussed in the testimony filed in this proceeding. While the 2020 Protocol does outline the process for developing a future allocation method that *could* be a fundamental shift, any such future allocation method would be subject to a future filing before the Commission.¹² Further, no party to the 2020 Protocol is obligated to support any such future allocation method. Indeed, the 2020 Protocol extends, with certain specifically identified modifications, the previous 2017 Protocol allocation method. In particular, during the term of the 2020 Protocol, system resources will continue to be allocated based on the “System Generation” factor, which will continue to be dynamically allocated.¹³ This is the same as the most recent inter-jurisdictional allocation methods approved by the Commission in docket UM 1050.

⁹ Exhibit PAC/101 (2020 Protocol at 3); *c.f.* Stipulating Parties/100, Lockey, Storm, Jenks, Mullins, Hausman/8:16-19 (Approval of the 2020 Protocol does not, however, pre-determine ratemaking treatment, prudence or reasonableness of costs, closure dates for coal-fueled resources, or approval of Post-Interim Period Implementation Issues).

¹⁰ Id.

¹¹ Objection at 5.

¹² See *e.g.* Stipulating Parties/100, Lockey, Storm, Jenks, Mullins, Hausman/8:20-9:5; PAC/101 (2020 Protocol Section 20).

¹³ Exhibit PAC/101 (2020 Protocol at 9).

SBUA repeats its position that a thorough examination is needed and quotes Ms. Lockey's testimony regarding the Exit Date process in the 2020 Protocol. Again, SBUA misstates the record in the proceeding and the process articulated in the 2020 Protocol. Any Exit Date is established in an Exit Order, which is not being requested in this proceeding. The Commission will consider the prospective dates in other proceedings. Further, SBUA fails to identify the impact of Senate Bill 1547, and the need to address removing the costs associated with coal-fueled generation from Oregon rates by 2030. SBUA's selective analysis, and unsubstantiated request for additional process, do not correctly reflect the record in this proceeding or the substantial record in this docket as a whole.

B. SBUA's Objection ignores prior Commission determinations and confuses the issues in this proceeding with other proceedings at the Commission

Stakeholders to the MSP have been in near continuous negotiations throughout the course of this docket discussing and exploring allocation issues and different methods. The 2020 Protocol represents a consensus agreement being presented to the Commission for approval, along with the commissions in other PacifiCorp states.

SBUA, in its Objection, asserts that despite the consensus development of the 2020 Protocol, PacifiCorp's petition and the stipulation should have discussed the alternatives considered. SBUA, however, later acknowledges that the Commission has already confirmed that PacifiCorp has explored alternatives in the MSP¹⁴ and Staff explored alternatives in docket UM 1824.¹⁵

Stakeholders in the MSP agreed to the specific terms of the 2020 Protocol after considering various alternatives. In Order No. 17-124, the Commission specifically found that

¹⁴ Objection at 6.

¹⁵ Objection at 7.

PacifiCorp has met the requirements of Section XIV, paragraph 3 of the 2017 Protocol by timely providing the results of its assessment of alternative interjurisdictional allocation methods, including a corporate structural alternative.

SBUA's "comments" on docket UM 1824 in the table in its Objection also require clarification.¹⁶ The Commission opened a separate investigation docket UM 1824, where the stated goal is to explore Oregon-specific allocation issues in parallel with the MSP proposals in docket UM 1050.¹⁷ UM 1824 is a proceeding in parallel with docket UM 1050. SBUA has conflated the two proceedings, providing only a high level commentary to selective statements from a year-old presentation. SBUA's comments raise no specific concerns or issues, nor do they suggest the record in this proceeding is not sufficient for the Commission to make a decision. No other Party to this proceeding has objected to the Stipulation.

V. CONCLUSION

For the reasons discussed above, the Stipulating Parties request that the Commission grant this Motion Requesting Leave to Respond and accept this Response to SBUA's Objection to Stipulation filed on January 14, 2020.

¹⁶ Id.

¹⁷ Order No. 17-214 at 4.

Respectfully submitted January 21, 2020.

By:

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