

REDACTED

Docket No. 20000-519-EA-17

Witness: Joelle R. Steward

BEFORE THE WYOMING PUBLIC SERVICE
COMMISSION

ROCKY MOUNTAIN POWER

REDACTED
Settlement Testimony of Joelle R. Steward

May 2018

1 **Q. Are you the same Joelle R. Steward who previously provided testimony in this**
2 **case on behalf of Rocky Mountain Power (“Company”), a division of PacifiCorp?**

3 A. Yes.

4 **Q. What is the purpose of this settlement testimony?**

5 A. My testimony explains and supports the Amended Stipulation and Settlement
6 Agreement (“Amended Stipulation”), proposing a resolution to the issues in this
7 proceeding. The Amended Stipulation represents a comprehensive resolution of the
8 issues presented in this case, including support for a determination that the Company’s
9 proposal to upgrade or “repower” existing wind facilities (“Repowering Project”) is
10 prudent and approval of the continued recovery of the replaced wind equipment. The
11 Amended Stipulation advances the public interest for both our customers and the state
12 of Wyoming.

13 **Q. Please explain why the Company has submitted an Amended Stipulation in this**
14 **proceeding.**

15 A. The Company reached an agreement with the Wyoming Industrial Energy Consumers
16 (“WIEC”) that pertained to three different issues—the new wind projects and new
17 transmission facilities in Docket No. 20000-520-EA-17; this proceeding on the
18 Repowering Project; and the filing the Company will be submitting for the ratemaking
19 treatment for the benefits from the Tax Cuts and Jobs Act of 2017. A Stipulation for the
20 Repowering Project was originally submitted to the Commission on April 10, 2018, by
21 the signing parties, which were the Company, WIEC, and Interwest Energy Alliance
22 (“Interwest”). The settling parties have since had additional discussions with the other
23 parties in the proceeding—the Office of Consumer Advocate (“OCA”) and the

1 Northern Laramie Range Alliance (“NLRA”). With the clarifications and additions
2 incorporated into the Amended Stipulation, the OCA and NLRA have agreed to the
3 support the Amended Stipulation. This Amended Stipulation replaces, in whole, the
4 Stipulation submitted on April 10, 2018.

5 **Q. What issues are addressed in the Amended Stipulation that were not included in**
6 **the April 10, 2018 Stipulation?**

7 A. The key changes in the Amended Stipulation include: (1) a description of the facilities
8 included in Repowering Project (Amended Stipulation ¶ 34), which comprise the cost
9 estimates referenced in the Amended Stipulation, (2) clarifying language that the costs
10 and cost cap identified in the stipulation for the Repowering Project do not include the
11 system upgrades that would be necessary to deliver additional energy under modified
12 interconnection agreements (Amended Stipulation ¶ 35); and (3) new language to
13 specify the accounting treatment for retired wind facility assets (Amended Stipulation
14 ¶ 37) .

15 **AMENDED STIPULATION DETAILS**

16 **Q. Please describe the Amended Stipulation.**

17 A. The settling parties in this proceeding—the Company, WIEC, the OCA, Interwest, and
18 the NLRA (collectively, the “519 Settling Parties”)—have entered into an Amended
19 Stipulation, which is similar in structure to the stipulation previously filed and approved
20 in Docket No. 20000-520-EA-17 (“CPCN Docket”), in which the Company was
21 granted conditional certificates of public convenience and necessity for new wind
22 projects and transmission facilities. The Amended Stipulation replaces the original
23 Stipulation and contains the following key provisions:

- 1 • The 519 Settling Parties agree that the Company’s request for a determination
2 that its Repowering Project is prudent and for approval of the continued
3 recovery of the wind plant retired and replaced as a result of the Repowering
4 Project should be granted by the Commission. (Amended Stipulation ¶ 34).
- 5 • The Resource Tracking Mechanism (“RTM”) proposed by the Company in
6 Docket No. 20000-519-EA-17 will not be adopted and all costs and benefits of
7 the Repowering Project will flow through to customers through normal
8 ratemaking mechanisms and the Energy Cost Adjustment Mechanism
9 (“ECAM”). (Amended Stipulation ¶ 36(a)). The 519 Settling Parties agree to
10 support a test period in the next rate case that reflects the annualized costs and
11 benefits for the portion of the Repowering Project in-service by the rate
12 effective date. (Amended Stipulation ¶ 36(b)).
- 13 • The Company will bear the risk if any element of the Repowering Project does
14 not qualify for production tax credits (“PTCs”) unless the failure is due to a
15 change in law or an event that is beyond the reasonable control of the Company
16 and entities with which it has contracted for services and supplies. (Amended
17 Stipulation ¶ 36(c)).
- 18 • The Company will bear the risk of cost overruns associated with the
19 Repowering Project. In addition the Company agrees to a hard cap on
20 Repowering Project costs set at approximately [REDACTED] higher than the
21 Company’s most recent cost estimates presented in this proceeding. The hard
22 cap is intended to apply to the Repowering Project as a whole as defined in the
23 Amended Stipulation. However, a single combined cost cap is established for
24 the Repowering Project and the transmission and wind projects in the CPCN
25 Docket of approximately [REDACTED] if the Commission approves this Amended
26 Stipulation. (Amended Stipulation ¶ 36(d)(e)(f)).
- 27 • The 519 Settling Parties agree not to challenge the Company’s prudence or
28 recovery of the actual capital costs of constructing the Repowering Project,
29 except to the extent costs exceed the estimates of the Repowering Project as
30 presented in this proceeding or there is evidence of mismanagement by the
31 Company. (Amended Stipulation ¶ 36(d)).
- 32 • The 519 Settling Parties agree the the retired wind plant assets will be recorded
33 in accumulated depreciation reserve (“ADR”) and earn a return through
34 inclusion in rate base. Sub-accounts will be established to allow the Company
35 to track Wyoming’s share of retired wind plant balances and associated
36 depreciation expense separately and will be reported in the results of operations
37 and the next rate case for transparency. In the next depreciation proceeding, the
38 519 Settling Parties may propose whatever depreciation or amortization period
39 and recovery period they deem appropriate. (Amended Stipulation ¶ 37).
- 40 The Amended Stipulation reflects provisions and agreements that were

1 negotiated in good faith, and advance the public interest. The 519 Settling Parties
2 recommend the Commission approve the Amended Stipulation on this basis.

3 **Q. Please summarize why the Company supports the Amended Stipulation.**

4 A. The Company proposed the Repowering Project because it will provide significant
5 benefits to customers through the installation of longer blades and new technology that
6 will generate more energy in a wider range of wind conditions. The upgrades will
7 extend the operating life of the wind facilities and allow the facilities to requalify for
8 federal production tax credits (“PTCs”). The Company believes the Amended
9 Stipulation effectively resolves the issues in the proceeding. The Company believes the
10 Amended Stipulation is in our customers’ interest and in the interest of the state of
11 Wyoming.

12 **Q. What does the Amended Stipulation provide with respect to recovery of
13 Repowering Project costs?**

14 A. Under the terms of the Amended Stipulation, the Settling Parties agree not to challenge
15 the prudence or recovery of Repowering Project’s actual capital costs that are not in
16 excess of the estimated costs as presented by the Company in this proceeding, unless
17 there is evidence of mismanagement on the part of the Company. To the extent costs
18 exceed estimated costs or there is evidence of mismanagement, the prudence of the
19 excess costs and the impact of mismanagement are open to challenge. In addition, the
20 Amended Stipulation provides that the Wyoming share of any costs in excess of the
21 agreed-upon cap cannot be recovered by the Company under any circumstances. The
22 cost cap is intended to apply to the Repowering Project as a whole and to the extent the
23 cost cap that was stipulated in connection with the transmission facilities and wind

1 projects in the CPCN Docket is approved, a single, combined cost cap of approximately
2 [REDACTED] is made applicable to the projects in both dockets. The Company will also be
3 allowed to recover the cost of the retired wind plant assets that are currently in rate
4 base.

5 **Q. Why should the Commission approve the Amended Stipulation as it applies to**
6 **Repowering Project cost recovery?**

7 A. The Company's economic analysis, which included the cost of the retired wind plant
8 assets currently in rate base, shows that the Repowering Project will benefit customers.
9 All parties to this docket now support the Repowering Project under a traditional
10 ratemaking framework and agree to allow the Company to continue to recover costs of
11 the retired wind plant assets. Therefore, it is reasonable to accept, as prudently incurred,
12 actual costs up to the estimated amount on which the Company's analysis is based, so
13 long as there is no evidence of mismanagement. This is what the Amended Stipulation
14 provides. Any costs in excess of the estimates would be subject to challenge and costs
15 above the agreed-upon cost cap cannot be recovered at all.

16 **Q. Does the Amended Stipulation contain provisions that operate to mitigate**
17 **customer risk associated with the Repowering Project?**

18 A. Yes. The Company agrees to bear the risk related to any portion of the repowered
19 facilities that do not qualify for PTCs. In that event, PTCs will be imputed to any turbine
20 based on the actual wind output for equipment placed in service and included in rate
21 base, except to the extent the failure to qualify is the result of either a change in law or
22 an event beyond the reasonable control of the Company or its contractors. (Amended
23 Stipulation ¶ 36(c)).

1 **Q. Does the Amended Stipulation provide any guidance regarding how to determine**
2 **if an event is beyond the reasonable control of the Company?**

3 A. Yes. An event is beyond the reasonable control of the Company if the event is described
4 as a force majeure in the applicable agreement(s) between the Company and entities
5 with whom the Company has contracted for services related to the facility at issue.
6 (Amended Stipulation ¶ (36(c))). A force majeure event does not include any instance
7 where the Company has failed to make all commercially reasonable efforts to obtain
8 approval of PTCs including the pursuit of an excusable disruption under federal tax
9 rules. In the event of a change in law, the Company will make all commercially
10 reasonable efforts to mitigate the loss of value to customers including, but not limited
11 to, cancelling the acquisition or construction of facilities to the extent practical and cost
12 effective from the customers' perspective.

13 **Q. What happens if there is a change in law or a force majeure event?**

14 A. In the event of a change in law or a force majeure event, the Company will promptly
15 file a notice with the Commission describing the event and the Company's assessment
16 of its ability to complete the facility, in whole or in part, and other relevant information.
17 Amended Stipulation ¶ 36(c)). If there is any dispute regarding the applicability of this
18 provision or the extent of its applicability to a particular facility, or any dispute about
19 the Company's actions because of a change of law or force majeure event, such dispute
20 will be resolved by the Commission in the first general rate proceeding where the
21 Company seeks to include the capital costs of the facility in rates.

1 **Q. How does the Company’s assumption of PTC risk address concerns raised in this**
2 **case?**

3 A. The ability of the Repowering Project to qualify for PTC directly affects the overall
4 amount of customer benefits provided by the Repowering Project. To qualify for PTCs,
5 the Repowering Project must achieve commercial operation by the end of 2020. Parties
6 were concerned that this compressed schedule created a risk that a project might not
7 qualify for full PTCs and that customers should not bear that risk. The Amended
8 Stipulation addresses that concern by reaffirming the Company’s commitment to accept
9 PTC risk and provides details regarding the scope and extent of the assumption of risk.

10 **Q. What additional provisions included in the Amended Stipulation mitigate**
11 **customer risk associated with the Repowering Project?**

12 A. The 519 Settling Parties agree that the Company will bear the risk related to
13 construction cost overruns associated with the Repowering Project. (Amended
14 Stipulation ¶ 36(d)). As such, the Company will not be allowed to recover any
15 imprudent overrun costs, any costs due to Company mismanagement, or any costs in
16 excess of the cost cap. Further, the Company has the burden of proof regarding the
17 recovery of the costs associated with the Repowering Project. The 519 Settling Parties
18 agree not to challenge the Company’s prudence or recovery of the actual capital costs
19 of the Repowering Project except to the extent the actual costs exceed the estimated
20 costs presented in this proceeding, or there is evidence of mismanagement. (Amended
21 Stipulation ¶ 36(d)). If such circumstances ever exist, any challenge to cost recovery
22 will be limited to the prudence of the actual costs in excess of the estimated costs or
23 the impact of the mismanagement.

1 **Q. Please further describe the cost cap included in the Amended Stipulation.**

2 A. Pursuant to the Amended Stipulation the Company shall not seek nor be permitted
3 recovery from Wyoming ratepayers of Wyoming's share of capital costs in excess of
4 [REDACTED] (total-Company) for the Repowering Project all taken together. The
5 cost cap is set approximately [REDACTED] higher than the Company's most recent cost
6 estimates presented in this proceeding.

7 **Q. Does the cost cap agreed upon in the Amended Stipulation apply to all wind
8 facilities being repowered in the aggregate, or is the cost cap to be separately
9 allocated in some proportion to each of the wind facilities?**

10 A. The agreed cost cap is intended to apply to the Repowering Project, taken as a whole.
11 (Amended Stipulation, ¶ 36(e)) That is, the cost cap would be exceeded only if the cost
12 of the entire Repowering Project exceeds the amount of the cap, regardless whether the
13 costs of repowering any individual wind facility exceeded the estimated cost of
14 repowering that particular wind facility.

15 **Q. How does the cost cap contained in the Amended Stipulation relate to the cost caps
16 contained in the stipulation that was approved in the CPCN Docket?**

17 A. If the Amended Stipulation is approved by the Commission, the cost caps would be
18 combined into a single cost cap that would apply, in the aggregate, across all projects
19 in the two dockets. The combined single cost cap as noted, is approximately [REDACTED].

20 **Q. Does the cost cap benefit customers?**

21 A. Yes. The cost cap provides additional customer protections by limiting uncertainty
22 related to estimated project costs. By capping the amount of costs the Company can
23 seek to recover, the Amended Stipulation provides greater assurance that the expected

1 customer benefits will be realized. The cost cap reduces customer risk and shifts
2 additional risk to the Company.

3 **Q. Does the Amended Stipulation address the possibility that the Company could**
4 **obtain liquidated damages if a contractor fails to meet its contractual obligations?**

5 A. Yes. All liquidated damages received by the Company under contractual agreements
6 with vendors will first be retained by the Company to recover any costs in excess of
7 the cost cap. (Amended Stipulation ¶ 36(g)). Any remaining amounts, including, but
8 not limited to, liquidated damages received due to equipment not meeting specified
9 availability or performance, will be passed on to customers as an offset to capital costs.

10 **Q. Is this allocation of liquidated damages fair to customers?**

11 A. Yes. When considered in context of the other provisions in the Amended Stipulation,
12 this allocation of liquidated damages is fair and reasonable. It is highly uncertain
13 whether liquidated damages would become available to the Company and even more
14 uncertain whether liquidated damages would become available under circumstances in
15 which the cost cap has been exceeded. Allowing the Company to apply liquidated
16 damages first to costs incurred in excess of the cost cap does little to mitigate the risk
17 assumed by the Company in agreeing to the cost cap in the first instance. And, if the
18 cost cap is not exceeded, customers will benefit from the receipt of any liquidated
19 damages.

20 **Q. How does the Amended Stipulation address the ratemaking treatment for the**
21 **Repowering Project?**

22 A. The Company is withdrawing its request for the RTM. Instead, costs and benefits of
23 the Repowering Project will flow through to customers through normal ratemaking

1 mechanisms such as general rate cases and the ECAM. (Amended Stipulation ¶ 36(a)).
2 The 519 Settling Parties also agree to support a test period in the next general rate case
3 that reflects the annualized costs and benefits for the portions of the Repowering
4 Projects in-service by the rate effective date. (Amended Stipulation ¶ 36(b)). These
5 provisions address the Company's concern that without the RTM, multiple back-to-
6 back rate cases might be required to include the Repowering Project in rate base.

7 **Q. Does the Amended Stipulation contain terms to address what happens if the**
8 **Company enters into a settlement in Utah regarding the Repowering Project?**

9 A. Yes. If a settlement is approved in Utah that is more favorable for customers than this
10 Amended Stipulation, the parties will reconvene and reconsider this Amended
11 Stipulation and will file with the Commission to align the overall outcome of this
12 Amended Stipulation with the Utah settlement. (Amended Stipulation ¶ 38).

13 **Q. The Amended Stipulation references the agreement between the Company and**
14 **WIEC regarding Docket No. 90000-134-XO-17, the Tax Cuts and Jobs Act of 2017.**
15 **Is the Company requesting approval of that settlement in this proceeding?**

16 A. No. WIEC and the Company negotiated terms included in this Amended Stipulation as
17 part of a comprehensive package and will be bound by those terms, if approved. The
18 Company and WIEC are not asking the Commission to address the tax reform
19 stipulation in this docket. We have presented a stand-alone Amended Stipulation for
20 consideration in this case that resolves only issues in this case. Resolution of the tax
21 reform stipulation will be addressed by the Commission in the upcoming tax reform
22 application the Company will be filing in the near future.

1 **Q. Please explain Paragraphs 40 through 51 of the Amended Stipulation.**

2 A. The paragraphs identify the general terms and conditions that the 519 Settling Parties
3 have agreed to relative to the Amended Stipulation. These general terms and condition
4 are consistent with prior settlements entered into by the 519 Settling Parties and
5 approved by the Commission.

6 **STANDARDS FOR APPROVAL OF STIPULATION**

7 **Q. Has the Commission previously provided guidance on the standards used to**
8 **evaluate Stipulations?**

9 A. Yes. In paragraphs 131 to 140 of the Commission's Order dated July 29, 2010, in
10 Docket No. 20000-352-ER-09 (2009 GRC Order), the Commission addressed the use
11 of settlements in resolving the issues in dispute among parties and made the following
12 points:

- 13 • The extensive investigation and lengthy review process undertaken by the
14 Commission in the review of a stipulation in Wyoming assures firm grounds for
15 the judgment that rates are just and reasonable (§134);
- 16 • Settlements most often save time and money for all engaged in the process
17 (§135);
- 18 • Stipulations can produce sound results in factually complex circumstances
19 §136);
- 20 • Through litigation, many hours would likely be spent at a considerable cost in
21 developing the kind of consensus that parties achieve and express in stipulations
22 and produce a more favorable result than through litigation (§137);
- 23 • Stipulations provide the interesting advantage in creating commitments and
24 ratepayer benefits that would be extremely difficult for the Commission to order
25 with useful practical effect (§138);
- 26 • A stipulation can also create value by allowing solutions to develop and be
27 vetted more quickly than would be possible through a contentious process
28 (§139); and
- 29 • The Commission acknowledged that it cannot order parties to engage in the

1 settlement process or to act in good faith to reach settlement, but did express its
2 preference for good faith participation in such a process. And the Commission
3 expressed its desire that, in the future, all parties, even those who decline to join
4 in a settlement, be prepared to participate in settlement discussions.

5 In addition, in the Commission’s Order dated September 22, 2011, in
6 Docket No. 20000-384-ER-10 (“2010 GRC Order”), the Commission reiterated and
7 expanded upon several of the principles set forth in the 2009 GRC Order:

- 8 • The Commission encouraged parties to complex proceedings to participate in
9 settlement discussions, reiterating that settlements of good quality most often
10 save time and money for all engaged in the process, particularly by shortening
11 potential hearing length (§119);
- 12 • A stipulation can produce a sound result in factually complex circumstances,
13 and in a way that permits all parties to achieve a generally favorable result
14 (§119);
- 15 • Stipulations can create commitments and ratepayer benefits that would be
16 extremely difficult for the Commission to order with useful practical effect.
17 Settlement discussions can create value by allowing possible solutions to
18 develop and be vetted more quickly than would be possible with an insistence
19 on a contentious process (§119);
- 20 • The Commission also noted that the Stipulation in the 2010 general rate case
21 responded to the broad array of issues raised in the extensive pre-filed
22 testimony, did so in a way that revealed the main elements of the bargain
23 reached by the parties, and provided clear direction for Commission action
24 (§120); and
- 25 • Stipulations illustrate the Commission’s interest in the value of settlement
26 agreements, most significantly in the value of achieving results unlikely if the
27 case were decided simply on the merits of the parties’ positions (§125).

28 In this case the 519 Settling Parties have come together in good faith and
29 reached an agreement that may not have resulted from full litigation. The Amended
30 Stipulation strikes a middle ground among the diverse position of the parties, and
31 represents the culmination of significant negotiations among the 519 Settling Parties.
32 It represents a reasonable solution of the complex issues in this case that is in the best
33 interests of customers and the state of Wyoming.

1 **Q. Do you believe the Amended Stipulation is in the public interest and meets the**
2 **standards previously articulated by the Commission for approval of stipulations?**

3 A. Yes. The Amended Stipulation will advance the efficient and timely resolution of the
4 issues in this proceeding while minimizing the costs and risks of litigation for all
5 parties. Ultimately, the Amended Stipulation will also operate to allow customers to
6 obtain the significant benefits to be gained through completion of the Repowering
7 Project. Clarifying the scope of the PTC risk that the Company will assume, together
8 with the provisions in the Amended Stipulation regarding cost recovery and the hard
9 cap on total costs the Company may recover provides greater certainty going forward
10 for both the Company and its customers. The agreement to forego the RTM and to
11 reflect annualized costs and benefits for the Repowering Project in the test period for
12 the Company's next general rate case, as contemplated by the Amended Stipulation,
13 will ensure that costs and benefits of the Repowering Project will be reasonably
14 matched in rates. The provisions of the Amended Stipulation produce a sound result
15 that is in the best interest of all parties. Considered in total, the Amended Stipulation is
16 in the public interest and should be approved.

17 **Q. What is your request of this Commission?**

18 A. For all of the reasons stated in my testimony and the additional details provided within
19 the Amended Stipulation itself, I urge the Commission to approve the Amended
20 Stipulation because I believe it is in the public interest.

21 **Q. Does that conclude your settlement testimony?**

22 A. Yes.

BEFORE THE WYOMING PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR AN ORDER APPROVING NONTRADITIONAL RATEMAKING RELATED TO WIND REPOWERING

Docket No. 20000-519-EA-17
Record No. 14780

AFFIDAVIT, OATH AND VERIFICATION

Joelle Steward (Affiant) being of lawful age and being first duly sworn, hereby deposes and says that:

Affiant is the Vice President, Regulation for PacifiCorp, which is a party in this matter.

Affiant prepared and caused to be filed the foregoing testimony. Affiant has, by all necessary action, been duly authorized to file this testimony and make this Oath and Verification.

Affiant hereby verified that, based on Affiant's knowledge, all statements and information contained within the testimony and all of its associated attachments are true and complete and constitute the recommendations of the Affiant in her official capacity as Vice President, Regulation.

Further affiant Sayeth Not.

Dated this 8th day of May, 2018.

Joelle Steward
Joelle Steward
Vice President, Regulation
1407 W. North Temple, Suite 330
Salt Lake City, UT
(801) 220-4705

STATE OF Utah)
)SS:
County of Salt Lake)

The foregoing was acknowledged before me by Joelle Steward on this 8th day of May, 2018. Witness my hand and official seal.

Melanie R Allen
Notary Public

My Commission Expires:

