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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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| In the Matter of the Application of PacifiCorp for an Increase in its Rates and Charges |)))) | Docket No. 01-035-01 |
| In the Matter of the Application of PacifiCorp for Approval of its Proposed Electric Service Schedule |)))) | Docket No. 01-035-23 |
| |) | THE COMMITTEE OF CONSUMER SERVICES PETITION FOR REVIEW AND RECONSIDERATION |

Pursuant to Rule 746-100-11(F) of the Administrative Code of Utah, the Committee of Consumer Services (“Committee”) hereby requests that the Public Service Commission of Utah (“Commission”) review and reconsider its November 2, 2001, Order on Refund issued in Docket No. 01-035-01 and its November 2, 2001, Order issued in Docket No. 01-035-23 regarding retention of refund ordered in Docket No. 01-035-01 and implementation of a revised Schedule 95, with respect to the matters set forth herein.

1. PACIFICORP SHOULD ACCRUE INTEREST AT THE RATE OF ONE PERCENT PER MONTH, COMPOUNDED, ON THE RETAINED REFUND MONIES.

In Paragraph 5 on page 3 of its November 2, 2001 Order in Docket 01-035-01, the Commission directs as follows:

“PacifiCorp refund the overcollection created by the September 10, 2001 order in this Docket when conditions found in Docket No. 01-035-23 warranting interim relief improve. The Commission will establish the details for the disposition of the refund at that time. PacifiCorp will accrue interest, at the Company’s weighted average cost of capital used in this case, on the refund amounts.”

While a weighted average cost of capital may be an appropriate interest rate in other matters it is wrong for these circumstances. The evidence presented at the hearing, and the findings of the Commission in its two November 2, 2001, Orders, show that PacifiCorp’s cash flow is “constrained at least through the end of 2001”¹, and that, while the amount of interim recovery granted benefits the Company little for the period in question,

“[i]t makes no sense to exacerbate [the Company’s cash flow and bond rating problems] by ordering an immediate refund, further reducing cash flow and possibly causing a credit downgrade that ultimately could inflict more harm on customers.” (01-035-23 Order, pages 4-5.)

It is submitted that these circumstances of the Company are qualitatively no different than those of a customer of the Company who cannot afford to pay a bill when it is due, and therefore the interest rate the Company should pay to its customers, as advocated at the hearing by Committee witness Kelly Francone, should be the same that customers must pay the Company in the same circumstances: one percent per month, compounded. Company witness Larson stated at the hearing he felt most customers would be happy to earn interest at the Company’s weighted cost

¹Item 1 of Findings and Conclusions in Commission’s Order in Docket No. 01-035-23, page 5.

of capital of 8.8%. Clearly, customers will feel more fairly and justly treated if their forced loan to the Company earns the same interest rate they are forced to pay the Company under similar circumstances.

2. PACIFICORP SHOULD BE ORDERED TO CALCULATE NOW, BY INDIVIDUAL CUSTOMER, WHAT REFUND EACH HOUSEHOLD AND BUSINESS IS DUE AS A RESULT OF THE COMMISSION'S ADOPTION OF THE RATE DESIGN STIPULATION IN DOCKET NO. 01-035-01.

The Commission's November 2, 2001, Order in Docket No. 01-035-23 provides that "there [will] be a refund when the conditions found in this order warranting relief improve" (page 5), and specifies that "PacifiCorp will ensure that each customer will be reimbursed based on usage in the event of a refund" (page 6), as a result of overcollection in the February 2, 2001, interim award.

Committee witness Kelly Francone testified at the October 16, 2001, hearing that, while the Committee advocated an immediate refund to customers in this matter, *if* the Commission decided to approve the Company motion for interim recovery then

"... extraordinary effort should be made to ensure that the customers who paid the excess monies receive their refund should one still be owed after the Commission's final Order in this matter. The Committee would ask that PacifiCorp calculate by individual customer what each household and business is due at this time to be honored once this case is completed if any refund comes as a result of the Order. This would make it more likely that the customers who paid the increased rates would be refunded some portion or the full amount of what they had paid. In addition, the Committee believes that because PacifiCorp is seeking to retain the current refund owed, if a refund is determined to be due, that refund should be made at the Company's expense." (pages 162-163 of Hearing Transcript).

The difficulties of determining the recipients of any Company refund are apparent, and those difficulties increase exponentially with time.

In the present case, the Commission has determined that a refund is due rate payers in Docket No. 01-035-01 as a result of over-collection from the February 2, 2001, interim recovery. As a result of the Commission's September 10, 2001, and November 2, 2001, Orders in Docket 01-035-01, customer rates are to be reduced from what they became following issuance of the February 2, 2001, interim recovery order. Furthermore, while the Commission's November 2, 2001, Order in Docket No. 01-035-23 granted PacifiCorp's petition to revise Schedule 95 (page 5), the resulting increased rates are still lower than those created by the February 2001 interim award.²

So, if the Commission eventually orders PacifiCorp to pay a refund, it may have to be calculated based upon the difference between the Docket No. 01-035-23 Final and Interim rates, as well as that between the Docket No. 01-035-01 Final and Interim rates.

The Committee is concerned that, if the refund due from Docket No. 01-035-01 is not calculated for each customer now, it may not be possible to accurately calculate what is due when Docket No. 01-035-23 is eventually decided.

We therefore respectfully ask the Commission to direct the Company to calculate *now*, on an individual customer-by-customer basis, the refund amounts due in Docket No. 01-035-01 so that there is an established basis for eventually calculating any refund that may be paid.

3. PACIFICORP SHOULD BE ORDERED TO TAKE STEPS NOW TO ENCOURAGE DEPARTING CUSTOMERS TO LEAVE THEIR FORWARDING ADDRESSES WITH THE COMPANY.

Hearings in Docket No. 01-035-23 will not begin until April 1, 2002, with a final

²See attached Appendix A to this petition, showing the rate change effects resulting from the Commission orders in Docket Nos. 01-35-01 and 01-035-23.

Commission order in that matter not likely until the end of May 2002, so any refunds due are unlikely to be distributed until sixteen or seventeen months after the initial interim rate collection began in February 2001.

Given the fact that some who have been customers during the interim recovery period from February 2001 until May 2002 will have moved or stopped service before the end of that period, getting a refund back to all of those customers who made the over-payment will become increasingly more difficult. For this reason, if there is a serious intent to effect a refund to customers, if any is due, at the end of the Docket No. 01-035-23 matter, then the Commission should, as recommended by the Committee at the hearing, direct the Company to *now* contact its customers and advise them to leave their forwarding addresses with the Company so any refund can be sent to them. PacifiCorp should further be directed to inform its Utah customers what has been decided in these matters, and that an eventual refund remains a real possibility, in order to encourage departing customers to record their forwarding addresses with the Company.

Summary

The Company in this matter is being allowed to retain customer monies because having the Company make timely payment “will only exacerbate” the Company’s cash flow and perhaps affect its credit rating. The Company’s circumstances in this matter are, thus, qualitatively no different than those a customer faces when unable to timely pay for service. Therefore, the interest rate which the Company pays on customer monies retained should be no different than the interest rate the Company charges its customers under similar circumstances for monies due, which is one percent per month, compounded. Also, since the Commission’s November 2,

2001, Orders will necessarily complicate the calculation and distribution of any refund monies eventually due customers, the Company should be directed to now calculate the refunds due to each individual customer in the Docket No. 01-035-01 proceedings which can then be later adjusted for the schedule changes and recoveries awarded in the Docket No. 01-035-23 matter. The Company should also be directed to inform customers what has been decided and is anticipated in these matters, to encourage those who may leave the Company's system to leave their forwarding addresses with the Company to facilitate eventual distribution of any refunds due.

Dated this 23rd day of November, 2001

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