



July 31, 2001

The Public Service Commission  
160 East 300 South  
Salt Lake City, Utah

Dear Commissioners,

I intend to provide testimony in the pending PacifiCorp rate case, 01-035-01 on public witness day. The testimony in this letter is what will be presented. I am sending an advance copy to those parties for whom I have been able to get e-mail addresses so you have an opportunity to review it before it is actually presented. For easier reference I have created the testimony in Question-Answer format and have numbered the lines.

This testimony is from "Light and Truth." This organization has no connection with my employer, the Division of Public Utilities. In this testimony, I do not speak for the Division of Public Utilities in any way. I have obtained relevant information and copies of other testimonies and orders through official requests directly to the Commission and Division and not unofficially from my employer. I have arranged for personal leave from my employer, if needed, to attend the public witness day hearings.

Sincerely,

Paul F. Mecham, for  
Light and Truth

- 1 Q. Please state your name and organization affiliation.  
2 A. My name is Paul F. Mecham and I am affiliated with Light and Truth.  
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4 Q. Tell us a little about the organization, Light and Truth.  
5 A. It is dedicated to shedding light and discovering truth on selected issues and topics. Its  
6 major thrust is speaking out on behalf of the large number of individuals who have no  
7 special interest group championing their cause. The organization is just now being  
8 formed. The name has been registered with the state; it is registered as a lobbyist with  
9 the Lieutenant Governor's office and it soon will have a Web presence.  
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11 Q. What is the purpose of your testimony?  
12 A. I respond to pre-filed testimony from the special interest groups, Salt Lake Community  
13 Action Program, Crossroads Urban Center and Utah Legislative Watch, relative to  
14 special considerations requested for low-income households.  
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16 Q. To what special considerations do you refer?

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A. A low-income component in a new energy efficiency program (Direct Testimony of Elizabeth A. Wolf). A new Life-Support Assistance Program (Direct Testimony of Jeffrey V. Fox). Removal of the \$1.85M cap on the HELP program (Direct Testimony of Dr. Charles E. Johnson).

Q. Please summarize your arguments.

A. These proposals are (1) premature, (2) are based upon unsubstantiated claims, (3) belong before the Legislature rather than the Commission and (4) actually threaten our governmental fabric.

(1) PREMATURE

Q. Are the proposals premature?

A. I sincerely believe they are. I agree with and support the testimony filed by Division witness, Ronald Burrup.

Q. Have the interests been considered of those whose money is being taken to fund these proposals?

A. To the best of my knowledge, no input has been sought from them. Nor has there been any action on the topic from their legally elected representatives in the Legislature. There appears to be nothing on the record beyond statements from the advocates like, “not overly burden other customers.” Perhaps this topic will be addressed in the pending evaluation of the effectiveness of the HELP program.

(2) UNSUBSTANTIATED CLAIMS

Q. What claims were made as the HELP program was proposed?

A. The Commission found benefits to the utility and to utility customers in general through reduced collections, terminations, reconnections and arrearages (Final Report and Order in Docket 99-035-10).

Q. Have these findings or claims been substantiated?

A. To the best of my knowledge, none of this has ever been demonstrated, quantified and attributed directly to the program. It has merely been repeatedly stated. Saying it is so does not make it so.

(3) LEGISLATURE

Q. Why should these issues be before the Legislature?

A. Simply put, the Legislature is the governmental body charged with determining the government’s income and outgo. It sets the budget for all state agencies and programs. It must balance the needs of all. No other agency (including the Commission) has the responsibility and authority to view and prioritize this broad, all-inclusive range of needs.

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Q. Has the legislature filled the needs of the poor?

A. Apparently not, as their needs are defined by advocacy groups. Nor, apparently, has the Legislature meet the needs of education as those needs are defined by advocacy groups. Nor, apparently, has the Legislature meet the needs of police and public safety as those needs are defined by advocacy groups. The list of “needs” of groups, functions and agencies is nearly endless.

Q. Can a case be built that justifies additional expenditures for any of these needs?

A. Absolutely yes! Cases not only can be built but are built regularly. The cases typically are built in a “vacuum,” looking only at the need being advocated. Seldom is any serious consideration given to other competing needs or the priorities involved in the source of funds.

Q. What is the Commission being asked to do in this docket?

A. Based upon justification in a vacuum, it is being asked to make a decision in a vacuum. If the Commission grants the petitions it will be creating a distortion in the legislative system. It will be ignoring the priorities that were carefully hammered out in the Legislature and essentially making a very narrow end-run around that process.

Q. Can and should the Commission act outside this legislative budget process?

A. It can and already has, in implementing the existing HELP plan. Whether or not it should expand that plan with the proposals before it in this docket is what is being debated here. Expanding the action increases the possibility (even probability) that other needs such as education, public safety, highways, etc. will be directed to the Commission. I believe the Commission should stop right where it is in this process and not increase the potential for appeals and class action.

#### (4) THREATEN GOVERNMENT

Q. What is the separation of powers between the three branches of government in our constitutions?

A. In simple terms, the legislative branch creates the laws; the executive branch carries out (or “executes”) those laws and the judicial branch judges whether the laws and the execution of them are legal and constitutional.

Q. Are there also checks and balances between the three branches of government?

A. Without repeating all of Political Science 101, yes, each branch has a check and balance on the other two. These are to protect the citizens.

Q. Is that important?

A. It is extremely important. James Madison in his Federalist Paper No. 47, stated that “. . . the accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.”

1 Q. How do you feel that applies to the circumstances in the docket before us?

2 A. A man who served as undersecretary of State and Ambassador to Mexico some seventy  
3 years ago put it in words far better than I can. His name was J. Reuben Clark. He said:  
4 "... And let me say here and now, that in the whole history of the human race, ...  
5 Tyranny has never come to live with any people with a placard on his breast  
6 bearing his name. He always comes in deep disguise, sometimes proclaiming an  
7 endowment of freedom, sometimes promising help to the unfortunate and  
8 downtrodden, not by creating something for those who do not have, but by  
9 robbing those who have. But tyranny is always a wolf in sheep's clothing, and he  
10 always ends by devouring the whole flock, saving none."  
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12 Q. How does the Commission fit in this discussion?

13 A. Again in simplicity, the Commission is an administrative body in the executive branch  
14 with quasi-legislative and quasi-judicial functions. This overlapping power was granted  
15 for the very specific purpose of regulating utility monopolies. The power has no real  
16 day-to-day checks and balances beyond the commissioners' combined consciences.  
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18 Q. What are the potential impacts of the Commission granting exceptional consideration to  
19 special interest groups?

20 A. The Commission could act like the little Dutch boy and put its finger in the dike. Or, by  
21 granting exceptions outside its specific responsibility, it could even dig the hole in the  
22 dike a little larger. The Commission's actions could damage the very fabric of our  
23 government. With additional damage from other sources our government could collapse.  
24 Were that to happen, the poor who advocates are trying to help, will be even worse off  
25 than they are now. And, unfortunately, so will the rest of us. We must be constantly  
26 vigilant in ensuring that our actions are consistent with our constitution which defines  
27 and protects the rights we too often take for granted.  
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## 29 CONCLUSION

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31 Q. Because these proposals are premature, are based upon unsubstantiated claims, belong  
32 before the Legislature rather than the Commission and actually threaten our  
33 governmental fabric, I strongly recommend that the Commission deny the proposals of  
34 the special interest groups in this docket.

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Advance copies via e-mail to:

[bwolf@slcap.org](mailto:bwolf@slcap.org)

[cjohnson@ieee.org](mailto:cjohnson@ieee.org)

[jeffvfox@home.com](mailto:jeffvfox@home.com)

[lalt@utah.gov](mailto:lalt@utah.gov)

[rball@br.state.ut.us](mailto:rball@br.state.ut.us)