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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Demand Side Cost  
Recovery by PacifiCorp (dba Utah Power  
and Light Company

Docket No. 02-035-T12

In the Matter of the Treatment of Special  
Contracts Regarding Surcharges

Docket No. 03-035-16

In the Matter of the Application of  
PacifiCorp for Approval of its Proposed  
Electric Rate Schedules & Electric Service  
Regulations

Docket No. 03-2035-02

**MOTION OF THE DIVISION OF  
PUBLIC UTILITIES TO  
CONSOLIDATE AND REQUEST  
FOR HEARING, AND  
RESPONSE TO U.S.  
MAGNESIUM, PRAXAIR,  
KENNECOTT AND NUCOR**

The following is a Motion to Consolidate for hearing Dockets Nos. 03-035-16 and  
02-035-T12 with Docket No. 03-2035-02, to request a hearing to address this Motion and to  
respond to U.S. Magnesium, Praxair and Kennecott and Nucor.

1. On July 23, 2003, the Division of Public Utilities (DPU) filed a Petition to open Docket No. 03-035-16. In that Docket, the DPU asked the Commission to give notice to each special contract customer that the Commission is exercising its jurisdiction to determine if the rates for each of these special contract customers continue to be just and reasonable. U.S. Magnesium, Praxair, Kennecott and Nucor filed responses disputing the necessity of opening the docket as requested and challenging the DPU's request on various grounds.

2. In May 2003, PacifiCorp (the Company) filed a general rate case, Docket No. 03-2035-02. A Protective Order has been issued. Hearings in that docket are scheduled for early next year with an order required by April 1, 2004. In that Docket, the Company is performing cost of service studies for each of the special contract customers to determine if their contract rates cover the cost of providing service.

3. The DSM tariff rider Docket No. 02-035-T12 will result in the Company filing a proposed rate that would, under the Company's proposal, be applicable to all tariff customers. This new rate would be applied to customers' bills effective April 1, 2004. Although the rate in the tariff rider has not yet been filed, it is the DPU's view that when the rate for the tariff rider developed in Docket No. 02-035-T12 is filed, it should also be consolidated for hearing with the general rate case where the cost of service studies for all customers are being presented.

4. Consistent with the Division's Request for Consolidation, by including Docket No. 03-035-16, special contract customers will be on notice that the Commission will review the cost of being served by the Company. The special contract customers' responses to the DPU's request in Docket No. 03-035-16 are unpersuasive as to the need for this docket. Consolidating

Docket No. 03-035-16 with the other two dockets as requested herein will allow proper consideration of the issues concerning special contracts. Issues involving special contracts are properly before the Commission for review, consistent with direction in prior Commission orders. Consolidation with PacifiCorp's general rate case will allow individual review of each special contract. Individual concerns, such as the financial harm U.S. Magnesium claims, could be considered during evaluation of U.S. Magnesium's contract.<sup>1</sup> Confidentiality concerns can be adequately addressed by the Protective Order in the rate case. Contrary to assertions raised in the responses, reviewing the special contracts is not duplicative of other efforts, but is a proper exercise of the Commission's jurisdiction and consistent with its duty to ensure that rates are just and reasonable and in the public interest.

5. By combining all Dockets, one hearing can address how the rate increase and the DSM costs would affect the cost of service for each customer group, including special contracts. It is the current general rate case that is designed to determine how the rate increase will be allocated to various customer groups. Consolidation for hearing will allow all issues surrounding the cost of providing service to all customers to be heard at one time, thus allowing for efficiency in providing a complete record to the Commission.

6. The special contract customers in their responses argue that the DPU Petition is inappropriate since a separate docket needs to exist for each special contract customer since their contract was approved in a separate docket. This argument has no merit. One purpose of filing the Petition was to give the notice necessary to let each special contract customer know that the

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<sup>1</sup>U.S. Magnesium Response, p. 7.

Commission may exercise its authority to determine if the rates charged special contract customers continue to be cost based. Even if the Commission finds a need for separate dockets that would not prevent review in the rate case Docket where all customers costs, including special contract customer costs, will be considered.

7. The responses of the special contract customers also claim that it would be unfair to impose a DSM tariff rider on them because they did not participate in Docket 02-035-T12 or the stipulation that came out of that docket. Because the tariff rider only applies to the tariff customers, it is not necessary to address the special contract customers' ability to participate in the DSM tariff rider docket or the extent of their participation. Any application of either all or part of the stipulation would only occur after notice and an opportunity to be heard.

In conclusion, the DPU continues to believe that opening this Docket is in the public interest and should not be dismissed. It is intended to provide notice to the special contract customers that the Commission may take action affecting their contracts. In addition, the DPU respectfully asks the Commission to consolidate this Docket with the general rate case. Finally, when the company files a rate to be applied to tariff customers under the provisions of the DSM tariff rider, the DPU respectfully requests that that docket also be consolidated with the rate case.

Both an increase in general rates, if any, and the DSM tariff rider are anticipated to go into place on April 1, 2004. Only in the rate case where all cost of service issues are present can just and reasonable rates for all customers be addressed.

Dated this \_\_\_\_\_ of September, 2003.

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## CERTIFICATE OF MAILING

I certify that I mailed a true and correct copy of the foregoing **PROPOSED ORDER** postage prepaid, on this \_\_\_\_\_ day of September, 2003, to the following:

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