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HAND DELIVERED

Public Service Commission of Utah
400 Heber M. Wells Building
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Salt Lake City, Utah 84111

**Re: Docket No. 04-035-01, Response of Utah Power to Recommendations of
Committee of Consumer Services**

Dear Commissioners:

PacifiCorp dba Utah Power & Light Company ("Utah Power" or "Company") hereby responds to the recommendations of the Committee of Consumer Services ("Committee") dated May 4, 2005.

The Committee claims that there are five major deficiencies in the Public Service Commission Inquiry Report, Utah Holiday 2003 Storm Inquiry ("Utah Power Report") filed by Utah Power on May 13, 2004: (1) it fails to establish minimum levels of system reliability for severe winter storms; (2) it fails to address why Bountiful and Murray had lower incidences of customer outages in connection with the storm; (3) it fails to provide a detailed cost-benefit analysis of alternatives for improving system reliability from implementation of a three-year tree vegetation management cycle to undergrounding the entire distribution network; (4) it fails to specify the manpower levels necessary to maintain the sub-transmission and distribution ("T&D") system and the implications of the loss of experienced utility personnel over the last few years; and (5) it fails to address the level of local management presence required to ensure that reasonable quality of service and reliability standards are met.

The Committee then recommends that the Commission: (1) schedule a public hearing or meeting to allow the Division of Public Utilities ("Division") and its consultant Williams Consulting Inc. ("WCI") to publicly present the results of their investigation and discuss agreements reached between the Division and Utah Power regarding issues examined in WCI's inquiry; (2) direct Utah Power to provide a detailed cost-benefit study of alternatives ranging

from implementing a three-year vegetation management cycle to undergrounding the entire T&D system along the Wasatch Front; (3) direct Utah Power to provide additional information and explanation regarding why customers of the Bountiful and Murray municipal electric systems experienced lower outage levels than Utah Power's customers; (4) resolve apparent discrepancies between Utah Power's claim that SAIDI/SAIFI numbers have improved over the last few years and the weather-related outage information provided by the Division; and (5) consider establishing a separate docket to investigate the nexus between corporate management presence and local control issues such as quality of service and reliability in Utah.

Utah Power disagrees with the Committee's claims and objects to its recommendations for two reasons. First, the extensive process already undertaken in this matter has addressed and resolved most, if not all, of these issues in a public context through a series of reports and technical conferences. Committee staff participated extensively in this process. Second, any remaining issues regarding the costs and benefits of future actions are already the subject of the Service Quality Review Group established by the Commission in Docket No. 04-035-42, of which the Committee is a member. Utah Power agrees with the Division's December 6, 2004 recommendation that this docket should be concluded, subject to quarterly follow-up reports, which will be accomplished through the Service Quality Review Group. The Division recommended:

The Division recommends that the Commission acknowledge that the Company has made progress in addressing both the recommendations that they suggested and those suggested by WCI in relation to the Utah Holiday 2003 Storm Inquiry. The Division also recommends that the Commission require the Company to provide periodic reports on several items related to the implementation of the recommendations. The specific reports that should be required are as listed in the discussion section of this memorandum.

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The Company anticipates holding a meeting sometime in February 2005 to present its final update regarding the implementation and progress of the recommendations. After this meeting, the Company has agreed to hold periodic meetings to discuss the specific measures and standards that the above listed

reports should contain and to provide an update on the status of the implementation of the recommendations.

In the following sections of this response, the Company will provide additional detail regarding how the issues raised by the Committee were addressed and resolved. Three of the Committee's claims are essentially the same issues raised by the Committee's recommendations. Therefore, this response will address the other two claims and then address the five recommendations.

Claim 1: Minimum Levels of System Reliability in Severe Storms

A major subject of the investigation was whether the storm was extraordinary and whether it would be reasonable to establish and maintain a system that would be impervious to such an extraordinary storm. Utah Power is obligated to maintain its system in a cost-effective manner to provide reliable service under reasonably anticipated conditions. Utah Power believes the Committee would be the first party to complain if Utah Power asked for major rate increases to establish a system that could withstand extraordinary conditions, such as the storm that occurred between December 26, 2003 and January 2, 2004. Therefore, an appropriate balance must be found.

The Committee characterizes the storm as only the fourth worst in the last ten years based on information from the National Weather Service, cited in the Review of PacifiCorp's Storm Response Report, Utah Holiday Storm – December 2003 ("Division Response") filed by the Division on May 14, 2004. However, this characterization is misleading given that the four worst storms in the last 75 years occurred within the last ten years, and the December 2003 storm was among those four (a fact that the Committee relegates to a footnote). Moreover, the Committee fails to explain that the statistic ranking the December 2003 storm as only fourth worst is based on snow depth and does not consider the moisture content of the snow or the continuous nature of the storm over a period of several days. Furthermore, it is undisputed that the storm did more damage to Utah Power's system than any storm in recent history. By any reasonable measure, the storm was extraordinary and rare. The Division and WCI, following their investigation, have acknowledged this fact in the Division Response and their December 6, 2004 letter. Indeed, the Committee itself acknowledges the storm as a major event in its May 6, 2005 memorandum on that subject.

Because extraordinary conditions are, by their nature, unpredictable, it does not make sense to try to anticipate what level of service should be maintained during them. Indeed that is why ongoing system reliability performance is measured across the industry based on normal

conditions. Utah Power's overhead construction is appropriately designed for such conditions, in compliance with the National Electrical Safety Code standards that Utah Power is required by Commission rule to follow. This issue was discussed in Chapter 9 of the Utah Power Report, which notes that, "No system is designed to withstand mechanical impacts like tree limbs falling into power lines"

In addition, this issue was discussed in a technical conference on May 18, 2004 and with the Utah Legislature's Energy Task Force on May 26, 2004. Therefore, while Utah Power acknowledges minimum levels of system reliability in severe storms were not established, there are good reasons why they weren't. Notably, the experts at WCI did not make any such recommendation as the Committee now advocates.

Claim 4: Manpower Levels

The Committee discusses manpower levels and loss of journeyman experience in its memorandum and notes some difference of opinion on these issues in the Utah Power Report and Division Response, with the Company emphasizing the reliance it has on contractors as well as full-time employees. However, the Committee fails to tie this discussion to the recommendations of Utah Power and WCI regarding future maintenance plans that were reviewed at length and on which they ultimately agreed. In addition, as the Committee notes, the issue of maintenance was discussed in the technical conferences on November 29, 2004 and April 4, 2005. Therefore, Utah Power believes this issue has already been addressed in this proceeding.

The Committee's claim raises another concern. If the Commission attempts to prescribe manpower levels for Utah Power, it will be intruding on management prerogative. The Commission's role in regulating Utah Power is to assure that Utah Power is providing safe, reliable and adequate service at just and reasonable rates. It is not to manage the utility. The Commission fulfills its role by setting rates, including consideration of the reasonableness of expense and investment levels, establishing rules and standards for service quality, investigating specific issues that arise from time to time, such as the outage, and dealing with specific complaints. This is the appropriate way to regulate. The Commission sets standards and establishes policies and leaves it to the utility to determine how it wishes to meet those standards and policies. It is well established that the Commission is not to intrude on management prerogative except where bad faith, wastefulness or gross negligence is established. *Utah Dept. of Administrative Services v. Public Service Comm'n*, 658 P.2d 601, 618 (Utah 1983) (citing *Logan City v. Public Utilities Comm'n*, 296 P. 1006, 1008 (Utah 1931)).

Recommendation 1: Hearing or Public Meeting

The Committee recommends that the Commission schedule a public hearing or meeting to allow the Division and WCI to present the results of their investigation and discuss the agreements reached between Utah Power and the Division regarding the issues examined in WCI's inquiry. The Committee states that such a hearing or meeting would enable the Commission and interested parties to ask questions and gain a better understanding of how differences between WCI and Utah Power on key issues were resolved to WCI's satisfaction.

As acknowledged by the Committee, Utah Power filed its Utah Power Report on May 13, 2004. The Division and WCI provided their Division Response on May 14, 2004. These two reports were the culmination of four months of collaborative meetings at which Utah Power, the Division (including WCI), the Committee and Commission Staff met to define the scope of the investigation, to share information and to discuss recommendations and findings. The fact that the Division could file its extensive response to the 300-page Utah Power Report only one day after the Report was filed demonstrates the thoroughness of this collaboration.

On May 18, 2004, the Commission held a technical conference that was open to members of the public, and at which Utah Power and the Division, accompanied by WCI, presented their Report and Response to the Commission, the public and members of the media. Nonconfidential versions of the Report and Response were available for anyone wishing one, and they were also posted to Utah Power's website for public inspection and review. In addition, the Commission posted a link to the Utah Power Report and a summary of the Division Response on its website. The storm and causes for the outage and the recommendations of Utah Power and the Division for improvements were reviewed at length and any person present was given the opportunity to ask questions or make comments regarding the Report and Response.

Subsequent meetings, technical conferences or teleconferences were held on July 1, 2004, August 24, 2004, September 9, 2004, November 23, 2004, November 29, 2004, and April 4, 2005. In addition, meetings were held on related matters such as the "major event" definition and customer service guarantees on August 20, 2004 and February 2, 2005. WCI participated by telephone in most of these meetings, and there was a frank discussion of differences between the recommendations and positions on recommendations of the Company and the Division. These were reviewed in detail during the November 29, 2004 technical conference, and in a smaller group that included WCI and the Committee on November 23rd. WCI reported in these meetings that it was satisfied, and the Division reiterated as much in its December 6, 2004 recommendation concluding that the Company had implemented all of the recommendations of WCI to WCI's satisfaction. In particular, the Service Quality Review Group, with

representatives from the Division, Committee and Company, is to report on on-going maintenance activities, capital programs, etc., and is to meet quarterly until the next general rate case—addressing one of WCI's largest concerns.

Based on this history, it is apparent that the Committee's first recommendation has already been accomplished. There has been ample opportunity for the Commission, any party or any member of the public to review and understand the differences between the Company's and the Division's analyses and recommendations and to fully explore the resolution of those differences, including directing questions to WCI. In fact, during the course of the technical conferences mentioned above, that is exactly what took place.

Recommendation 2: Detailed Cost-benefit Study

The Committee recommends that the Commission direct Utah Power to provide a detailed-cost benefit study of remedial alternatives ranging from implementing a three-year vegetation management cycle to undergrounding the entire T&D network along the Wasatch Front. The justification for this recommendation offered by the Committee is that there was some question whether a three-year vegetation management cycle would have prevented many of the outages experienced during the storm and that Utah Power acknowledged that other alternatives such as undergrounding lines could have reduced the impact of the storm.

The costs and benefits of the three-year vegetation cycle were discussed at some length in technical conferences on May 18, 2004, November 29, 2004, and April 4, 2005. The Committee is correct in its observation that 80 percent of tree-damage-related outages during the December 2003 storm would still not have been prevented had the Company been current on its three-year vegetation cycle. However, that fact simply illustrates the magnitude and exceptional nature of the storm, particularly coming as it did during an extended period of drought. Aware of that finding, the Company recommended as part of its Report that effort, through increased funding, should be made to bring the tree trimming program to the three-year cycle that the Company has indicated would be optimum. After reviewing the data, WCI agreed with this recommendation. Now the Committee is questioning the recommendation without the benefit of any expert analysis simply because the three-year cycle would not have prevented many of the outages that occurred in this extraordinary storm.

As noted above, in maintaining its system Utah Power must maintain an appropriate balance between cost and benefit. Achieving and maintaining a three-year trimming cycle has been established as an appropriate balance of costs and benefits.

Utah Power could attempt to adopt more draconian standards such as not allowing trees and bushes in its right of ways at all. While there might be some significant initial cost associated with adoption of such a policy, its ongoing costs would be minimal so long as customers did not plant new trees or high growing bushes in the right of way. However, experience with customers, even with respect to the current clearances, demonstrates that customers would resist such a policy. Part of Utah Power's investigation was to conduct customer focus groups to obtain their input. In the November 29, 2004 and April 4, 2005 technical conferences, Utah Power presented survey reports from customers indicating a relatively high satisfaction with current Company vegetation management but also indicating that customers do not want more trimming. Even without such input, the Commission is aware of complaints associated with tree trimming. Therefore, a three-year cycle and the clearances required by Utah Power provide an appropriate balance.

The Committee also suggests that Utah Power provide a detailed cost-benefit analysis of undergrounding its T&D network along the Wasatch Front. While such a detailed analysis has not been presented in this docket, the Company does discuss this issue in Chapter 9,—starting with 9.8 “Why doesn't the company underground all its electricity lines.” The reason for not doing so is obvious. In the mid-1990s when some local governments were attempting to require undergrounding of new power lines, various surveys were conducted of the willingness of customers to pay the increased costs of undergrounding. These surveys demonstrated that customers were not willing to pay even modestly increased rates to enjoy the benefits of underground systems. And this was for new lines. The costs of undergrounding existing lines would be astronomical. If the Committee seriously believes that its constituents would be interested in paying rates that are multiples of current rates so that they can avoid occasional weather-related outages, Utah Power is willing to explore that issue further. However, a fundamental understanding of any such study must be that rate increases associated with such major changes would be accepted so long as costs were prudently incurred in undergrounding.

In any event, while Utah Power is willing to consider alternatives to increase service reliability, that consideration need not delay the conclusion of this docket. As previously noted, the Commission has already established a Service Quality Review Group that can consider these issues on a forward looking basis.

Recommendation 3: Comparison with Municipal Power Experience

The Committee recommends that the Commission direct Utah Power to provide additional information and explanation regarding why customers on the Bountiful and Murray municipal power systems sustained lower outage levels than Utah Power customers. The basis

for this recommendation is the fact that Utah Power already provided gross comparisons of outage levels in its Report and those comparisons showed that a smaller percentage of customers experienced outages in Bountiful and Murray than on Utah Power's system.

This issue was raised in the initial public hearing in this matter on January 6, 2004. Utah Power responded that it was difficult to make comparisons of outage levels for different systems and that simplistic comparisons were meaningless. Although WCI accepted this explanation, at the September 9, 2004 and November 29, 2004 technical conferences the Commission told the Company that it was not satisfied with this explanation. As a result, Utah Power obtained further information from Bountiful Power and compared that information with the portion of its system located closest to Bountiful, Centerville. At the technical conference on April 4, 2005, Utah Power presented and explained this information. After accounting for differences in the numbers of customers served by single distribution feeders, the information demonstrated that in two adjacent areas, where weather conditions might be expected to be most similar, the results were comparable when considered on an apples-to-apples basis. Utah Power understood that the Commission and Division were satisfied with this further analysis.

The Committee's request that this analysis be extended to Murray, and that Utah Power account for differences between its customers' outage experience in other areas of the Wasatch Front with the experiences in Bountiful and Murray, ignores the differences in weather conditions that occurred and system design present in different areas. To make a meaningful comparison, it is necessary to find similar conditions. That is difficult, if not impossible. However, the Company's efforts to explore this issue in Bountiful and Centerville establish that while results were not identical, they were similar. Utah Power respectfully submits that further efforts on this issue are not justified.

Recommendation 4: Resolve SAIDI/SAIFI Discrepancies.

The Committee states that data filed by Utah Power with the Division shows an increase in "weather outages" in every year since the ScottishPower merger despite Utah Power's statements that it has made annual improvements in its SAIDI/SAIFI outage statistics since 1999. The Committee states that this information "appears to signal something is seriously amiss with how the utility has designed and maintained its Utah T&D system" and recommends that the apparent discrepancies be resolved.

This precise issue is covered in detail in Chapter 10 of the Utah Power Report, "Reliability and Maintenance," and follow-up information was requested and provided throughout the course of this docket. It was shown that because of improvements in reporting

systems, more incidents are reported now than were reported previously, but that when the data is adjusted to make it comparable, there has been a decline in customer hours lost to outages each year since the merger. The Division collaborated in this analysis and concurred with it. It is not clear from the Committee's recommendation whether it overlooked this analysis or disagrees with it. However, as with other recommendations, this one has already been addressed and resolved.

Recommendation 5: Separate Docket to Examine Nexus Between Corporate Management Presence and Local Control.

The Committee refers to "existing Utah customer concerns that the loss of a credible local utility management presence . . . was negatively affecting the quality and reliability of local electric service." While noting that these issues were addressed in the Utah Power Report, the Committee nonetheless recommends that the Commission consider establishing a separate docket to investigate the nexus between corporate management presence and local control issues such as quality of service and reliability.

As noted, these issues were addressed in the Report. The Report demonstrated that Utah has received its fair share of investment and maintenance expenses and that organization and corporate structure issues have been disclosed to regulators. However, beyond that, the Report noted that efficiencies achieved by centralizing some functions have resulted in lower rates for Utah customers and have been reviewed and at least implicitly approved by the Commission and the Division. Again, the Committee must recognize that there are costs associated with varying corporate structures and that those costs affect the rates paid by its constituents.

Like the Georgia Peterson, et al., intervenors, the Committee brings up the 1988 and 1999 merger orders. As in its response to the intervenors, Utah Power simply notes that it has conducted its business in the light of day and has even gone further in affirmatively disclosing and reviewing corporate organization and structure decisions with the Commission and the Division. In fact, in 2003 the Company sought confirmation through the Division that it was in compliance with the merger orders. Surely, the Committee is not suggesting as the intervenors do that the Commission and Division may review and at least implicitly consent to organizational and structural changes over the years, including taking cost savings resulting from them into account in setting rates, and then punish the Company for them later on the theory that they may be viewed as inconsistent with prior orders of which everyone was aware when the changes were disclosed and reviewed.

One aspect of the Committee's recommendation—the recommendation that if these issues are considered at all they should be considered in another docket—is at least partially on track. The Utah Power Report and the Division Response have both demonstrated that the December 2003 holiday storm was a truly exceptional event. The Company has requested that it be classified as a major event, and the Division and Committee, even with its reservations, have agreed that it was a major event. The careful and thorough investigation has revealed that the overriding cause of the widespread outages that occurred during and following the storm was the extraordinary storm. Utah Power has agreed to implement and has implemented numerous recommendations to improve customer service and to hopefully improve its ability to respond in a future occurrence of similar scope. That was the point and benefit of this docket, not some far ranging exploration of corporate structure.

Utah Power believes that there is no need to investigate its organizational structure. Such an investigation would intrude significantly into those areas of management prerogative left to utility management. *See Utah Dept. of Admin. Services, supra.* In addition, Utah Power is disturbed by the implication of this request, which is that the needs of Utah customers are not given priority because the corporate headquarters is not in Utah. Utah Power, like any other sound business, recognizes that its success depends on meeting its customers' needs wherever they are located. No one would suggest that computer buyers in Washington receive better service from Microsoft than customers in Utah just because Microsoft's headquarters is in the Seattle area or that the Commission cannot adequately protect customers in southern Utah just because the Commission is located in Salt Lake City. It makes no more sense to suggest that Utah Power customers receive worse service in Utah because Utah Power's headquarters is in Portland, Oregon. Hopefully, the Commission can see past such parochial notions and focus instead on the real issues of appropriate quality of service guidelines, which the Commission has already imposed, and allowing the Company sufficient rates to appropriately fund its efforts to meet those guidelines.

Conclusion

Based on the foregoing, Utah Power requests that the Commission reject the Committee's recommendations because they would re-plow ground already covered and conclude this docket consistent with the Division's December 6, 2004 recommendation. Utah Power requests that the Commission find and conclude that the outage was a major event, that Utah Power has taken reasonable actions to address the concerns raised by the other parties in this proceeding and to accommodate customers inconvenienced by the outage, and that any issues regarding future system reliability can be addressed through the proceedings of the Service Quality Review Group, which can make recommendations for further Commission action as necessary.

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Sincerely,

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cc: All Parties of Record