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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

<p>In the Matter of the Complaint of Georgia B. Peterson, Janet B. Ward, William Van Cleaf, David Hiller, GP Studio, Inc., Truck Insurance Exchange, and Farmers Insurance Exchange on Behalf of Themselves and All Other Members of the Class Described Below Against Scottishpower Plc and PacifiCorp, dba Utah Power &amp; Light Co, Requesting an Investigation, and Enforcement of the Commission's Orders in Docket Nos. 87-035-27 and 98-2035-04, and Compensation for Losses</p>	<p>Docket No. 04-035-70</p> <p><b>MOTION OF THE UTAH DIVISION OF PUBLIC UTILITIES FOR AN ORDER STAYING DISCOVERY</b></p>
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Pursuant to Utah Administrative Code R746-100-8.C and Rule 26(c) of the Utah Rules of Civil Procedure, the Utah Division of Public Utilities ("Division") respectfully requests that the Utah Public Service Commission ("Commission") issue an order staying discovery requested of the Division by Georgia B. Peterson, Janet B. Ward, William Van Cleaf, David Hiller, GP Studio, Inc., Truck Insurance Exchange, and Farmers Insurance Exchange ("Petitioners") pending resolution of Utah Power's February 7, 2005 Motion to Dismiss ("Motion to

Dismiss”) the Petitioner’s Petition and Request for Agency Action (“Petition”) and the request for agency action and the Division’s recommendation that the docket be closed.<sup>1</sup>

Petitioners’ Data Requests and Request for Production of Documents to the Division (“Data Requests”) were served August 17, 2005, and consist of 17 data requests and 30 requests for documents, with several requests containing multiple subparts. Many of the data requests and requests for documents seek information beginning in 1987. Petitioners claim that, “Certain of these responses and documents are necessary and requested to support Petitioners’ oral argument with respect to PacifiCorp’s Motion to Dismiss and the request for agency action and the Division’s recommendation that the docket be closed.”<sup>2</sup>

Despite Petitioners’ claims, no responses or documents are necessary to respond to the Motion to Dismiss, and the request for agency action and the recommendation that the docket be closed. The Data Requests seek specific factual information which is not necessary to determine issues relating to the jurisdiction of the Commission and the request for agency action and the closing of this docket set forth by the Motion to Dismiss and the Division’s recommendation.

Granting the Division’s motion staying discovery is in the best interests of achieving administrative economy and ensuring the orderly progression of this

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<sup>1</sup> Counsel for the Division contacted Petitioners’ counsel via email and voicemail in an attempt to resolve the issue between the parties, but did not receive a response prior to filing this Motion.

<sup>2</sup> Data Request at p. 1.

docket.<sup>3</sup> By forcing the Division to respond before resolution of the Motion to Dismiss and the Division's recommendation that the docket be closed, the Commission would be imposing a premature burden upon the Division. Furthermore, if the Motion to Dismiss or to close the docket were granted, the Division's responses would be unnecessary. By first resolving issues related to the Motion to Dismiss and recommendation, the Commission would be ensuring the orderly procession of the case. Furthermore, no prejudice would be imposed upon Petitioners' if the Commission were to grant the Division's Motion for Stay because discovery, and objections thereto, would merely be delayed, not denied<sup>4</sup>

Therefore, for the reasons stated above, the Division respectfully requests that the Commission grant the Division's Motion for a Stay of Discovery pending resolution of the Motion to Dismiss and recommendation to close the docket.

RESPECTFULLY SUBMITTED, this \_\_\_\_\_ day of September 2005.

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<sup>3</sup> The Division notes that PacifiCorp dba Utah Power also has filed a motion for a protective order seeking a stay of discovery. The Division also notes that a status and scheduling conference in this docket will be held on September 26, 2005 to discuss pending motions, to schedule oral argument, and to set further proceedings.

<sup>4</sup> The Division believes that many of the data requests and requests for documents served upon it are overbroad, or impossible to fulfill due to lack of information, but these matters should not be before the Commission until, and unless, the Motion to Dismiss and recommendation to close the docket are denied.

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **MOTION OF THE UTAH DIVISION OF PUBLIC UTILITIES FOR AN ORDER STAYING DISCOVERY** was sent by electronic mail and mailed by U.S. Mail, postage prepaid, to the following on September \_\_\_\_\_, 2005:

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