

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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 & 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

Docket No. 04-035-70

STIPULATION

PacifiCorp dba Utah Power & Light Company ("Utah Power" or "Company") and Georgia B. Peterson ("Peterson"), Janet B. Ward ("Ward"), William Van Cleaf ("Van Cleaf"), David Hiller ("Hiller"), GP Studio, Inc. ("GP"), Truck Insurance Exchange ("Truck"), and Farmers Insurance Exchange ("Farmers") (Peterson, Ward, Van Cleaf, Hiller, GP, Truck and Farmers will be referred to hereinafter individually and collectively as "Petitioners"), in consideration of the terms and conditions of this Stipulation, hereby stipulate as follows:

I. INTRODUCTION

A. STORM, OUTAGE AND INVESTIGATION

1. A severe winter storm commencing on December 25, 2003 and continuing intermittently through January 2, 2004 ("Storm") caused widespread interruptions in delivery of electricity to customers located along the Wasatch Front in Utah ("Outage"). The magnitude of the Storm was unexpected, and, as it stalled over the Great Salt Lake and Wasatch Mountains, it evolved into one of the most destructive storms in Utah Power history.

2. On January 6, 2004, the Commission initiated an investigation of the Outage in Docket No. 04-035-01. Utah Power informed the Commission that it was already conducting its own internal investigation of the Outage and would provide a report to the Commission. The Commission directed the Division to review Utah Power's investigation and report and to provide its own recommendations. The Committee asked to participate in the investigation and review also. The Division retained Williams Consulting, Inc. ("WCI"), a firm with recognized expertise in the electric utility industry, to assist it in independently reviewing Utah Power's investigation and report, to provide professional opinions regarding Utah Power's conclusions and recommendations and to provide its own conclusions and recommendations with regard to the Outage.

3. Utah Power, the Division, WCI, the Committee and members of the Commission staff met and developed detailed Terms of Reference to govern the investigation and report. They continued to work collaboratively, sharing information and both preliminary and final findings, conclusions and recommendations, throughout the investigation.

4. On May 14, 2004, Utah Power filed its Utah Holiday Storm Inquiry – 2003 Report ("Report"), including a thorough analysis of the Storm and Outage and Utah Power's response to it and making 28 recommendations for improvements that would mitigate the impact of a similar storm in the future and enhance Utah Power's response. On the same day, WCI filed its Review of PacifiCorp's Storm Response Report ("Response"), reviewing the Report and making 18 additional recommendations.

5. The Report and Response were presented to the Commission and the public in a previously noticed technical conference on May 18, 2004. Thereafter, publicly noticed technical conferences were held on July 1, August 24, September 9, November 29, 2004, and April 4,

2005 to review the Report and Response, resolve differences in the conclusions and recommendations in the Report and Response and review Utah Power's implementation of the recommendations in the Report and Response. In addition, publicly noticed technical conferences were held on August 20, 2004 and February 2, 2005 on customer service guarantees and the definition of a major event. An additional meeting on recommendations in the Report and Response was held on November 23, 2004, between the Company, the Division, WCI and the Committee.

6. On December 6, 2004, the Division filed a memorandum in which it stated that the "PacifiCorp and WCI disagreements were discussed and resolved to the satisfaction of WCI." The Division recommended that "the Commission acknowledge that the Company has made progress in addressing both the recommendations that [the Company] suggested and those suggested by WCI in relation to the Utah Holiday 2003 Storm Inquiry. The Division also recommend[ed] that the Commission require the Company to provide periodic reports on several items related to the implementation of the recommendations."

7. On June 24, 2005, the Commission issued a memorandum concluding the investigative docket. The memorandum stated:

Utah Power itself detailed twenty-eight ameliorative changes it would undertake. The Division and Williams Consulting provided eighteen additional recommendations which they believed could be implemented. Through this process, Utah Power has agreed to and has implemented over forty recommendations. Utah Power has agreed to provide status reports on its implementation efforts and provide future information on the success achieved. Where the utility had initial disagreement with a limited number of the recommendations made by the Division and its consultant, subsequent meetings and discussions have resulted in modifications and implementation such that the Division and Williams Consulting believe that Utah Power is pursuing all of the objectives sought by their recommendations. The Division has

recommended that Utah Power's progress be recognized and that it continue to provide periodic reports on its future progress.

Some of these ameliorative steps will likely have an impact upon Utah Power's network performance standards or measurements which Utah Power, as PacifiCorp, agreed to provide and report on a periodic basis as part of its merger approval application. Merger Condition #31, adopted and approved in the Commission's 1999 approval of the merger, requires such measurement and reporting; Utah Power has been consistent in developing and providing this network performance information. Part of the agreement on network performance reporting permits exclusion of "major events" from performance measurements. Utah Power, the Division and the Committee of Consumer Services have all agreed that the December-January outage meets the current definition of a "major event" for network performance reporting under Merger Condition 31. There is no disagreement that the December-January outage is to be considered a "major event" in calculating Utah Power's network performance measurements.

What constitutes a "major event" outage for Merger Condition 31's network performance reporting, however, is separate and apart from a qualifying outage associated with Customer Guarantee #1 that was offered by PacifiCorp as part of its merger application. As part of its agreements to obtain approval of its merger, Utah Power, as PacifiCorp, offered Customer Guarantee #1, by which it agreed it would endeavor to quickly restore power and would compensate customers various amounts depending upon the duration of their power outages. Whereas Utah Power made a Merger Condition 31 network performance reporting commitment, Customer Guarantee #1 has been incorporated into post-merger tariff provisions; in Electric Service Regulation No. 25. The terms and conditions specified in Regulation No. 25 use the wording of "major events" (as an exception for which no customer compensation need be paid) which has caused some confusion for some individuals to equate a "major event" outage for network performance reporting with an outage for Regulation 25's "major events" exclusion for customer guarantees under the tariff. Although there is agreement on the meaning and use of the term "major event" for Merger Condition 31's network performance reporting, but for its initial approval of Regulation 25, the Commission has not had to address or construe the meaning of and application of Regulation 25's exclusions. The language in each may be similar, but they may have different meanings; we have not issued any decisions that could be used to identify any similarities or distinctions between

the two. In undertaking this investigative docket, the Commission did not, and does not, intend to address the application of Regulation 25 to the December-January outage in this docket. Whatever the application of Regulation 25's terms and conditions to this outage, it will not be addressed in Docket 04-035-01. Regulation 25 has its own terms and process for application and addressing disputes, if any. Disputes on such matters are not to be resolved in an investigative docket.

Through these investigative proceedings and the course of our ongoing regulatory oversight, Utah Power and participants have identified certain issues or matters which warrant further examination and discussion to determine whether they warrant implementation or change in utility operations. To that end, we have created a Service Quality Task Force to analyze maintenance and investment issues and to examine the condition of the Utah distribution system, hoping to identify other improvements which might be made to provide appropriate service quality while incurring reasonable costs. Along the course of the Task Force's work, these and likely other matters will be discussed and examined. We anticipate that these efforts will derive more detailed cost-benefit analyses examining increasing the design and operational limits in Utah Power's distribution network; including a focus on the various Utah service areas which experience more frequent and severe outages. The Task Force should also consider the "major event" definition used in network performance reporting and the network's reliability statistics or measurements to determine whether the application and information provided is the most useful in assessing the provision of electric service consistent with regulatory policy and public interest goals.

. . . We encourage those who participated in these proceedings to participate in the Service Quality Task Force, as their interests may determine.

B. GOODWILL CREDITS

8. Electric Service Regulation No. 25 ("Regulation 25") of the Company's approved tariff sets forth the general terms and conditions and the manner by which customers may receive bill credits if the Company is unable to fulfill specified "Customer Guarantees," including restoration of power supply after an outage. In relevant part, Regulation 25 provides:

1. CUSTOMER GUARANTEE CREDIT:

For failure to meet a Customer Guarantee for Customer Guarantees 1 and 7, Customers must make a claim for compensation. Valid compensation claims for Customer Guarantees 1 and 7 submitted within 30 days of the date of an outage will be credited to the Customer's account. . . . See Schedule 300 for a description of the Customer Guarantee credits.

2. DESCRIPTION OF CUSTOMER GUARANTEES:

(a) Customer Guarantee 1: Restoring Supply After an Outage

In the event of an outage, the Company will restore a Customer's electric supply within 24 hours of being notified except where:

- (1) The Customer agreed to remain without supply;
- (2) The Company offered the Customer a generator as an alternative means of supply;
- (3) There were problems or safety-related issues with the Customer's internal equipment; or
- (4) Specialized equipment was required to restore the supply.*

* Also see General Exceptions.

To receive a credit, a Customer must make a claim for compensation within 30 calendar days of the date of the outage.

. . . .

3. GENERAL EXCEPTIONS:

Payment for the failure to meet a Customer Guarantee shall not be made if any of the following general exceptions occur:

. . . .

(6) Major events, such as storms, as currently defined by the Institute of Electrical and Electronics Engineers, Inc. (IEEE).¹

9. Utah Power's Electric Service Schedule 300 set forth the following credits with respect to Customer Guarantee 1 at the time of the Outage: For residential customers, \$50; for non-residential customers, \$100; and for each additional 12 hours, \$25.

10. At the hearing on January 6, 2004, Utah Power informed the Commission, Division, Committee and interested persons that the Storm and Outage was a major event ("Major Event"). Utah Power understood that the classification of the Storm and Outage as a Major Event was the same for Merger Condition 31 and Regulation 25.

11. On January 23, 2004, the Committee filed a request in Docket No. 04-035-01 for the Commission to extend the 30-day period during which customers could make claims for credits related to the Outage based on Utah Power's inability to restore service within 24 hours until the Commission had made a determination whether the Outage was a Major Event. On the same day, AARP joined in the Committee's request.

12. On February 2, 2004, Utah Power notified the public through a press release of a voluntary goodwill credit program under which customers who were without power for 48 hours or more as a result of the Outage could submit claims through February 26, 2004, and that Utah Power would provide bill credits to the customers who experienced outages of 48 hours or more, even though Utah Power considered the Outage to be a Major Event, as follows: outages of 48-71 hours, \$100; outages of 72-95 hours, \$150; outages of 96 or more hours, \$200. The voluntary goodwill credit program received widespread media coverage. In addition, Utah Power ran half-page ads explaining the program in major daily newspapers.

¹ Utah Power & Light Company, Electric Service Regulation No. 25, issued by authority of Report and Order of the Commission in Docket No. 03-2035-02.

13. On February 9, 2004, Utah Power made a filing opposing the Committee and AARP request on the grounds that it would amount to retroactive modification of Utah Power's tariff and that it was unnecessary in light of the voluntary goodwill credit program.

14. On February 9, 2004, the Division responded to the Committee's and AARP's request, opposing it because it was not authorized by law.

15. On February 18, 2004, AARP withdrew its request on the ground that the voluntary goodwill credit program was both equitable and reasonable. In addition, AARP noted in its filing that it had provided additional advertising of the voluntary goodwill credit program.

16. On February 27, 2004, the Commission issued its Order Denying Petition to Extend Claim Period. The Commission said:

The Commission finds that a public interest consideration that could support providing customers a longer time period to file their Customer Guarantee claims has been obviated by the Company's goodwill compensation offer. If there were customer confusion or ignorance concerning the tariff's clear 30 day time period language, the Company's offer to accept goodwill compensation requests through February 26 has provided a satisfactory alternative in lieu of the Regulation 25 Customer Guarantee claims. Customers who would qualify for Customer Guarantee claims could have submitted them pursuant to the tariff's provisions. Those who failed to do so may still obtain similar compensation if they submit their claim by February 26, 2004. This alternative to time precluded customers has been widely advertised to potential claimants. We agree with AARP's characterization that this alternative is "both equitable and reasonable." The public interest consideration for the Committee's request has been met under these circumstances.

17. Although not required to do so, Utah Power honored all claims for goodwill credits for outages lasting 48 hours or longer, including claims received after February 26. In total, Utah Power provided bill credits of \$1,943,150 to 14,474 customers who made claims.

II. PETITIONERS' CLAIMS AND UTAH POWER'S DEFENSES

A. PETITIONERS' FIRST PETITION

18. On April 29, 2004, Petitioners Peterson, Ward, Van Cleaf and Hiller filed their Petition and Request to Intervene in Docket No. 04-035-01 for themselves and all customers similarly situated ("First Petition"). The First Petition was filed against both Utah Power and ScottishPower and requested: (1) investigation of waste of coal mining assets, (2) an accounting of the proceeds of the sales of certain land tracts and a determination whether the assets have been transferred in violation of the Utah Supreme Court's holdings in *Committee of Consumer Services v. Public Service Comm'n*, 595 P.2d 831 (Utah 1979) and *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601 (Utah 1983), (3) an order to show cause requiring Utah Power and ScottishPower to produce evidence of compliance with certain portions of the order approving the merger of Utah Power & Light Company, a Utah corporation, with PacifiCorp, a Maine corporation, in Docket No. 87-035-27 and the Commission's order approving the merger of PacifiCorp, an Oregon corporation, with ScottishPower plc in Docket No. 98-2035-04 ("Merger Orders"), (4) a finding that the Outage was caused and exacerbated by Utah Power's inadequate maintenance of its distribution lines and system in the years since the mergers, and that the Outage be declared not to be a Major Event and Utah Power not be relieved from liability to its customers for economic losses, (5) if the Commission determines that the terms of the Merger Orders were violated: (a) Utah Power or ScottishPower be penalized in a potential amount of \$320,000,000, (b) Utah Power or ScottishPower be ordered to restore economic benefits to the state of Utah lost as a result of violation of conditions in the Merger Orders, (c) Utah Power and ScottishPower be ordered to comply with conditions in the Merger Orders, including potential hiring or transfer of employees and divisions to Utah, (d) Utah Power be ordered to establish customer service systems and staff in Utah, and (e) Utah Power be

ordered to divest the Utah Power division if Utah Power cannot or is unwilling to comply with the conditions in the Merger Orders, and (6) an award to Customers of the value of the actual financial and economic loss sustained by customers as a result of the Outage.

19. On May 14, 2004, Utah Power responded to the portion of the First Petition seeking intervention. Utah Power did not oppose intervention of the four individual Petitioners limited to participating on their own behalf in the remaining investigation of the issues within the scope of the docket, but noted that many of the issues raised in the First Petition were beyond the jurisdiction of the Commission or the scope of the docket. Utah Power argued that Petitioners' intervention should be limited because (1) the Division and Committee already represented their interests, and (2) the interests of justice and the orderly and prompt conduct of the adjudicative proceeding would be materially impaired if the broader issues were allowed to become a part of the docket.

20. On June 1, 2004, Utah Power responded to the balance of the First Petition. Utah Power generally denied the allegations of the First Petition and argued that: (1) the Commission lacked jurisdiction to award compensatory damages to Petitioners; (2) Petitioners' claims were governed by the terms of Utah Power's tariff and the tariff did not allow their claims; (3) the Commission had already determined in this docket that the period for filing claims under the tariff should not be extended and that the voluntary goodwill credit program was equitable and reasonable; (4) claims for penalties were barred by the tariff because the tariff provided an alternate remedy; (5) the Commission lacked jurisdiction to conduct a class action; (6) Petitioners were not proper representatives of the class; (7) several of Petitioners' claims were beyond the scope of the proceeding; and (8) Petitioners' claims were barred by accord and

satisfaction, res judicata, the bar on retroactive ratemaking, laches, and by relevant statutes of limitation.

21. On July 6, 2004, the Commission issued its Order Granting in Part and Denying in Part Petition and Request to Intervene (“Intervention Order”). The Intervention Order granted Peterson, Ward, Van Cleaf and Hiller intervention for the limited purpose of participating on their own behalf in the balance of the investigation, including whether the Outage was a Major Event, but otherwise denied the relief sought by the four Petitioners because it was either beyond the scope of the docket or the jurisdiction of the Commission. The Intervention Order directed Petitioners to bring their claims not related to the Outage to the Division for investigation.

22. Thereafter, Peterson, Ward, Van Cleaf and Hiller participated in the technical conferences in the investigative docket.

B. PETITIONERS’ SECOND PETITION

23. On December 23, 2004, all Petitioners filed a petition in Docket No. 04-035-70 (“Second Petition”) that was almost identical to the First Petition, except that GP, Truck and Farmers (Truck and Farmers will sometimes be referred to hereinafter as the “Insurers”) were added as Petitioners and the amount of potential penalties claimed was reduced to \$160,000,000. (In subsequent pleadings, Petitioners claimed that penalties substantially in excess of \$160,000,000 should be levied based on additional alleged theories of penalty liability.) The Second Petition also sought to assert claims on behalf of all customers similarly situated to Petitioners against Utah Power and ScottishPower. The Insurers asserted claims as subrogees of customers for whom they had paid insurance claims related to the Outage. The Second Petition was served on Utah Power by mail on January 4, 2005.

24. On February 7, 2005, Utah Power moved to dismiss the Second Petition on various grounds, including, in addition to the jurisdictional and other defenses asserted in

response to the First Petition, argument that the Second Petition was inconsistent with the Commission's Intervention Order. Utah Power also answered the Second Petition, generally denying its allegations and asserting arguments and defenses similar to those asserted in response to the First Petition.

25. Following extensive briefing on Utah Power's motion to dismiss and related matters, Petitioners sought discovery of Utah Power and the Division. Utah Power and the Division requested that the discovery be stayed pending a decision on Utah Power's motion to dismiss. The Commission denied that request, and discovery has proceeded. Although the discovery process has not been completed, Petitioners have received discovery of substantial information from the Division and Utah Power.

26. Utah Power's motion to dismiss the Petition is still pending before the Commission. Petitioners have asserted in pleadings filed with the Commission that if Utah Power's motion to dismiss is granted, they will file a complaint in district court on behalf of themselves and all other customers of Utah Power similarly situated, seeking much of the relief they have sought in the Second Petition.

27. The parties have engaged in substantial arms-length negotiation, and agree that settlement of this matter on the terms and conditions provided in this Stipulation will minimize the time and expense expended by the Commission, the parties, and customers, will enhance administrative efficiency, and will provide a just and reasonable result that is in the public interest and the interest of Utah Power's customers and any other affected persons.

III. TERMS AND CONDITIONS OF STIPULATION

28. The rates Utah Power charged its customers during all relevant periods were rates found to be just and reasonable by the Commission.

29. Utah Power is obligated to provide safe, reliable and adequate service at just and reasonable rates consistent with meeting these obligations on a long-term basis. Utah Power is also entitled to recover in its rates all of its reasonable and prudent costs in providing safe, reliable and adequate service. Thus, there is a substantial relationship between the costs Utah Power incurs to maintain its electrical distribution system and the rates found just and reasonable by the Commission.

30. If Utah Power attempted to construct and maintain a system that was impervious to events such as the Storm and Outage, the costs of such a system would result in substantial increases in rates paid by Utah Power's customers. There is a relationship between the level of service provided and the rates charged that must be considered by the Commission and parties in the rate cases of the Company.

31. Although Utah Power attempts to provide continuous service to its customers, it is inevitable that some disruptions in service will occur. In approving Utah Power's tariff, the Commission has concluded that the bill credits for outages where power is not restored within 24 hours provided in Regulation 25 are just and reasonable. The Commission has also concluded that the exceptions to the Company's obligation to provide these bill credits are just and reasonable.

32. The parties agree that the Storm and Outage was a Major Event for purposes of Regulation 25 and that the Outage was beyond the reasonable control of Utah Power. The parties also agree that the definition of Major Event should be and is currently the same for purposes of Regulation 25 and network performance standards and reporting.

33. All customers entitled to bill credits from Utah Power as a result of the Outage, even if it were not a Major Event, have already had a reasonable opportunity to submit claims to Utah Power for bill credits.

34. Utah Power agrees to provide additional voluntary goodwill credits in the form of bill credits to its customers that experienced outages of 48 hours or longer during the Outage and that previously received voluntary goodwill credits as a result of the Outage such that the total voluntary goodwill credits are as follows:

Type of Customer and Credit	Length of Outage		
	48 to 71 hours	72 to 95 hours	96 hours or more
Residential			
Credit Previously Provided	\$100	\$150	\$200
Additional Credit	\$0	\$0	\$75
Total Credit	\$100	\$150	\$275
Commercial			
Credit Previously Provided	\$100	\$150	\$200
Additional Credit	\$500	\$1,250	\$2,200
Total Credit	\$600	\$1,400	\$2,400
Industrial			
Credit Previously Provided	\$100	\$150	\$200
Additional Credit	\$500	\$1,250	\$2,200
Total Credit	\$600	\$1,400	\$2,400

In order to be eligible for this additional voluntary goodwill credit, a customer must still be a customer of record of Utah Power in good standing at the same address at which the customer would have received electricity from Utah Power during the Outage.

35. The parties agree that the voluntary goodwill credit program previously implemented by Utah Power and the additional voluntary goodwill credits provided in this Stipulation are just and reasonable and have reasonably paid customers for losses incurred as a direct or consequential result of the Outage for which Utah Power might reasonably be responsible given the balancing of the customers' interest in safe, reliable and adequate service with their interest in just and reasonable rates. The parties also agree that any additional recovery for customers beyond the terms agreed upon in this Stipulation would inappropriately impact the justness and reasonableness of Utah Power's rates.

36. Utah Power will not seek rate recovery for these voluntary goodwill credits.

37. Although the parties agree that the Storm and Outage was a Major Event and that the terms of additional goodwill credits provided in this Stipulation appropriately balance cost of service with system reliability for the time period of the Outage, the parties also agree that for the future it will be desirable for Utah Power to spend incrementally more on its system and maintenance, to prepare for the possibility of, and decrease the likelihood and severity of outages in the event of, a storm similar to the Storm in the future.

38. The parties agree that Utah Power has appropriately implemented the recommendations in the Report and Response as resolved by the Company, the Division and WCI as discussed in paragraphs 4 through 7 above and that such implementation should mitigate the impact of a storm similar to the Storm in the future. The parties agree that the costs incurred

in implementing the recommendations and Utah Power's commitments in paragraph 39 are the type of costs that should be recovered in rates.

39. Utah Distribution System Maintenance Commitments

a. From and after January 1, 2007, Utah Power agrees that it will be current on its three-year vegetation management cycle consistent with the Company's adopted standards for its owned overhead distribution lines in Utah. In order to accomplish the three-year cycle, Utah Power agrees that 25% to 41% of the distribution line miles in Utah will be reviewed annually. Utah Power further agrees that it will provide semiannual reports of the status of its compliance with this commitment to all members of the Service Quality Task Force. If any semiannual report for a period after January 1, 2007 demonstrates that Utah Power is not current on its three-year cycle in Utah, Utah Power agrees to become current not later than one year following the date of such report showing that it is not current. Utah Power's current estimate of the cost for vegetation management on its distribution system in Utah through December 31, 2011 is \$68 million. Notwithstanding this estimate, the parties agree that Utah Power's commitment in this subparagraph is for performance of vegetation management and is not an agreement to expend the estimated amount (or any other amount) of funds. Utah Power's expenditure of funds for vegetation management shall be in amounts it determines, in its sole discretion, are reasonable and prudent, provided recovery of such expenditures in rates is allowed by the Commission.

b. From and after July 1, 2007, Utah Power agrees that it will repair or correct all priority "A" conditions identified on its Utah distribution system that it is responsible to repair or correct within 120 days on average of the date the condition was

identified. Priority “A” conditions are conditions such as leaking electrical equipment, burning electrical connections, broken insulators, trees in primary conductors, unsecured primary conductors and broken guy wires. Utah Power further agrees that it will provide semiannual reports of the status of its compliance with this commitment to all members of the Service Quality Task Force. If any semiannual report for a period after July 1, 2007 demonstrates that Utah Power is not in compliance with this commitment, Utah Power agrees to become compliant with this commitment within six months following the date of the report showing that it is not in compliance. Utah Power’s current estimate of the cost to inspect and maintain its distribution system in Utah in compliance with this commitment through December 31, 2011 is \$111 million. Notwithstanding this estimate, the parties agree that Utah Power’s commitment in this subparagraph is for performance of repair or correction of priority “A” conditions within 120 days of the date they are identified on average and is not an agreement to expend the estimated amount (or any other amount) of funds. Utah Power’s expenditure of funds for inspection and maintenance of its distribution system in Utah shall be in amounts it determines, in its sole discretion, are reasonable and prudent, provided recovery of such expenditures in rates is allowed by the Commission.

c. Utah Power’s commitments in the two foregoing subparagraphs shall be in effect through December 31, 2011. In addition, Utah Power agrees that it will not request any modification of the terms of the commitments through March 31, 2008.

40. The parties agree that Utah Power’s compliance with paragraph 39 of this Stipulation should be monitored by the Service Quality Task Force. Any issue regarding whether Utah Power has complied with its commitments under paragraph 39 of this Stipulation

or whether remedies should be sought from the Commission based on a claim that Utah Power is not in compliance with its commitments under paragraph 39 shall be reviewed in the first instance by the Service Quality Task Force, and the Service Quality Task Force shall be free to make any determination and make any recommendation to the Commission that it deems reasonable after its review. If the Service Quality Task Force does not make a determination and recommendation to the Commission on any issue referred to it in accordance with the foregoing sentence within 120 days, any party shall be free to bring the issue before the Commission for resolution. If the Service Quality Task Force is discontinued for any reason, the provisions of this paragraph applicable to the Service Quality Task Force shall apply to the successor appointed by the Commission or, if no successor is appointed, to the Division.

41. The parties agree that the Division, acting under the direction of the Commission, has monitored Utah Power's compliance with the terms and conditions of the Merger Orders and that the actions of Utah Power with respect to number and location of employees, location of departments and attention to Utah operations have been at least implicitly reviewed and accepted by the Division in that role. The parties acknowledge that costs incurred by Utah Power in providing electric service to Utah customers have been reduced by its decisions regarding number and location of employees, location of departments and attention to Utah operations and that the rates charged by Utah Power have been based on those costs.

42. The parties are satisfied that the terms and conditions for authorization of the acquisition of Utah Power by MidAmerican Energy Holding Company ("MEHC") as set forth in the Commission's Report and Order issued March 14, 2006 in Docket No. 05-035-54 provide appropriate protection with regard to issues of number and location of employees, location of departments and attention to Utah operations going forward and that, except to the extent terms

and conditions in the Merger Orders have been expressly incorporated in the terms and conditions for authorization of the MEHC acquisition, terms and conditions in the Merger Orders are superseded by the terms and conditions for the authorization of the MEHC acquisition.

43. The parties agree that the real estate transactions and coal mining practices of Utah Power raised in the First Petition and the Second Petition have been subject to review in rate cases and other proceedings for many years and that rates set in those cases have been based upon the transactions and practices.

44. Based upon the foregoing, the parties agree that the First Petition, to the extent it is not already dismissed, and the Second Petition should be dismissed with prejudice.

45. The parties agree that Utah Power and its current and former officers, directors, shareholders, employees, representatives, agents, and affiliates (including parents, subsidiaries, and other entities with any degree of common ownership with Utah Power, and their current and former officers, directors, shareholders, employees, representatives, and agents) should be released from any and all claims, demands, and causes of action of any kind whatsoever, whether or not now known, suspected or claimed, which any customer of Utah Power ever had, now has, or claims to have had relating or connected to, or arising out of, the matters raised or that could have been raised in the First Petition or the Second Petition, including without limitation any and all claims that were raised or could have been raised regarding the Outage, Utah Power's electric service or rates, compliance with terms and conditions in the Merger Orders, real estate transactions, or coal mining practices, and any and all relief related to such claims whether in the form of penalties, damages, refunds, reparations, attorneys' fees, injunctive relief or any other form of relief whether at law or in equity, irrespective of the theory of recovery that could have been asserted.

46. The parties believe that this Stipulation is in the public interest and that its terms and conditions are just and reasonable.

47. While the Petitioners have asserted claims and asked to be permitted to pursue them as representatives of a class of customers of Utah Power, there has been no certification by the Commission or any other forum of any such class, nor a determination to allow any of the claims to be pursued on behalf of customers as a class. In its Intervention Order, the Commission expressly denied class standing to the four Petitioners in Docket No. 04-035-01. The parties agree that in the event either the Petitioners or their counsel are alleged to owe a fiduciary duty to any other Utah Power customers by virtue, solely, of the pleadings as filed in Docket No. 04-035-01 or in this docket, the benefits provided to customers pursuant to this Stipulation are a reasonable and sufficient benefit accruing to all Utah Power customers, individually or as a class, for purposes of the First or Second Petition. The parties agree that approval of this Stipulation is in the public interest and that its terms are just and reasonable as applied to all of Utah Power's customers.

48. All negotiations related to this Stipulation are privileged and confidential and no party shall be bound by any position asserted in negotiations. Neither the execution of this Stipulation nor the order adopting this Stipulation shall be deemed to constitute an admission or acknowledgment by any party of any liability, the validity or invalidity of any claim or defense, the validity or invalidity of any principle or practice, or the basis of an estoppel or waiver by any party other than with respect to issues resolved by this Stipulation; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any party to this Stipulation except a proceeding to enforce the approval or terms of this Stipulation.

49. The parties each agree to present testimony of one or more witnesses to explain and support this Stipulation and argument from counsel in support of this Stipulation. The witnesses of the parties will be available for cross examination, and counsel for the parties will appear at any hearing on approval of this Stipulation. With respect to Petitioners, Utah Power will take the lead in the foregoing and the involvement of Petitioners will be only as reasonably requested by Utah Power. No party to this Stipulation may present testimony or argument in opposition to this Stipulation.

50. The parties agree that if any person challenges the approval of this Stipulation, requests rehearing or reconsideration of any order of the Commission approving this Stipulation or seeks review in any court of any order of the Commission approving this Stipulation, each party will use its best efforts to support the terms and conditions of the Stipulation in any such proceeding.

51. Except with regard to the obligations of the parties under paragraphs 48, 49 and 50 of this Stipulation, this Stipulation shall not be final and binding on the parties until it has been approved without material condition by the Commission in an order that is no longer subject to any further reconsideration or appellate review. In the event the Commission rejects any part or all of this Stipulation, or imposes any additional material condition on approval of this Stipulation, or in the event the Commission's approval of this Stipulation is rejected or conditioned in whole or in part by a court, each party reserves the right to withdraw from this Stipulation. If such an order is issued, the parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to reach a modified stipulation. No party shall provide notice of withdrawal prior to complying with the foregoing sentence. In the event that no modified stipulation is reached, any party may

withdraw from this Stipulation by giving written notice of withdrawal to the Commission and the other parties to this Stipulation. Any such notice shall be given within ten days after reaching impasse in any discussions regarding modifying the Stipulation. If any party withdraws from this Stipulation pursuant to this paragraph, no party shall be bound or prejudiced by the facts stipulated in or the terms and conditions of this Stipulation, which have been accepted by the parties in consideration of the terms and conditions of this Stipulation and which may have been contested but for this Stipulation, and each party shall be entitled to undertake any step or to assert any position it deems appropriate without regard to this Stipulation.

52. The parties agree that this Stipulation should be adopted as the order of the Commission, enforceable as are other orders of the Commission.

BASED ON THE FOREGOING, the parties request that the Commission provide notice of a hearing to consider approval of this Stipulation and that the Commission thereafter issue an order adopting the terms and conditions of this Stipulation, approving this Stipulation, dismissing the First Petition and the Second Petition with prejudice and concluding and closing this docket.

RESPECTFULLY SUBMITTED: May 5, 2006.

Mark C. Moench
Senior Vice President and General
Counsel
PacifiCorp
201 South Main Street, Suite 2300
Salt Lake City, UT 84111
(801) 220-2000
(801) 220-4804 (fax)
mark.moench@pacificorp.com

Gregory B. Monson
David L. Elmout
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
(801) 328-3131
(801) 578-6999 (fax)
gbmonson@stoel.com
dlelmont@stoel.com

*Attorneys for PacifiCorp dba Utah
Power & Light Company*

David R. Irvine
350 South 400 East, Suite 201
Salt Lake City, UT 84111
(801) 363-4011
(801) 746-0174 (fax)
drirvine@aol.com

Alan L. Smith
1492 East Kensington Avenue
Salt Lake City, UT 84105
(801) 521-3321
(801) 521-5321 (fax)
alanakaed@aol.com

Attorneys for Petitioners

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **STIPULATION** was sent by electronic mail and mailed by U.S. Mail, postage prepaid, to the foregoing on May 5, 2006:

Mark C. Moench
Senior Vice President and General
Counsel
PacifiCorp
201 South Main Street, Suite 2300
Salt Lake City UT 84111
mark.moench@pacificorp.com

David R. Irvine
Attorney at Law
350 South 400 East, Suite 201
Salt Lake City, UT 84111
drirvine@aol.com

Michael Ginsberg
Patricia E. Schmid
Assistant Attorney Generals
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov

Gregory B. Monson (2294)
David L. Elmont (9640)
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
gbmonson@stoel.com
dlelmont@stoel.com

Alan L. Smith
Attorney at Law
1492 East Kensington Avenue
Salt Lake City, UT 84105
alanakaed@aol.com

Reed T. Warnick
Paul H. Proctor
Assistant Attorney Generals
500 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
rwarnick@utah.gov
pproctor@utah.gov