

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of	)	<u>DOCKET NO. 98-2035-03</u>
PACIFICORP for an Order Approving a	)	
Change in Depreciation Rates	)	<u>REPORT AND ORDER APPROVING</u>
	)	<u>STIPULATION</u>

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ISSUED: January 6, 2000

SUMMARY

By this Order, the Commission approves a Stipulation that provides new depreciation rates for PacifiCorp that will result in an increase in annual depreciation expense in Utah of approximately \$3.1 million based upon 1997 depreciable plant balances. In addition, the Stipulation provides for an accounting adjustment that will result in a decrease in annual depreciation expense in Utah of approximately \$3.5 million for a two-year period. The Stipulation also requires PacifiCorp to file a new depreciation study and accompanying application, testimony, and exhibits by October 1, 2002.

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Appearances:

Gregory B. Monson Stoel Rives LLP	for	PacifiCorp dba Utah Power & Light Company
Michael Ginsberg Assistant Attorney General	"	Division of Public Utilities
Douglas C. Tingey Assistant Attorney General	"	Committee of Consumer Services

Gary A. Dodge Parr Waddoups Brown Gee & Loveless	"	Alliant Techsystems, Inc., Hexcel Corporation, Thiokol Corporation, Chevron, S F Phosphates, E. A. Miller, Inc., IHC Hospitals, Inc., Geneva Steel, Western Electrochemical Company, and Utah Electric Deregulation Group ("Large Customer Group")
Bill Thomas Peters David W. Scofield Parsons Davies Kinghorn & Peters	"	Emery County
Eric Blank	"	Land and Water Fund of the Rockies
Charles E. Johnson, Ph. D.	"	Salt Lake Community Action Program and Crossroads Urban Center

By the Commission:

PROCEDURAL HISTORY

On November 24, 1998, PacifiCorp dba Utah Power & Light Company ("PacifiCorp" or the "Company") commenced this Docket by filing its Application for an Order Approving a Change in Depreciation Rates ("Application"). In the Application, PacifiCorp sought approval from the Commission of changes in the depreciation rates of the Company. The changes in rates proposed by PacifiCorp would have resulted in an increase of approximately \$23.6 million dollars in its annual depreciation expense over existing depreciation levels in the state of Utah based on 1997 depreciable plant balances. The testimony, and December 31, 1997 depreciation study of Deloitte & Touche by Donald S. Roff (the "Study"), was concurrently filed in support of the Application. Pursuant to various scheduling orders in this matter, PacifiCorp, the

Division, the Committee, and the Large Customer Group filed testimony regarding the issues raised by the Application. In addition to the direct testimony of Mr. Roff, PacifiCorp filed rebuttal testimony of Mr. Roff and direct and rebuttal testimony of Robert R. Dalley, John A. Bohling, and Larry W. Loos. The Division of Public Utilities (“Division”) filed direct and supplemental testimony of Charles W. King, direct testimony of Rebecca L. Wilson, direct testimony of Ronald L. Burrup, direct testimony of Mary H. Cleveland, and direct testimony of Kenneth B. Powell with revisions. The Committee of Consumer Services (“Committee”) filed direct testimony of Michael L. Arndt and Jacob Pous. The Large Customer Group filed the direct testimony of James T. Selecky. PacifiCorp, the Division, and the Committee also exchanged hundreds of data requests and responses relating to the Application and testimony filed in this Docket.

Hearings were scheduled for November 1, 2, and 3, 1999. Prior to the commencement of hearings, PacifiCorp, the Division, the Committee, and the Large Customer Group advised the Commission that they were engaged in settlement discussions and requested that the hearings be continued.<sup>1</sup> On November 9, 1999, notice was given to all parties that a hearing would be held on November 18, 1999, to consider a stipulation. On November 18, 1999, the hearing was continued to November 23, 1999, and on November 23, 1999, it was continued to December 7, 1999. Notice of each continuance was provided to all parties.

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<sup>1</sup> In addition to these four parties, which will be referred to hereinafter as the “Parties,” Emery County, the Land and Water Fund of the Rockies, the Salt Lake Community Action Program, and the Crossroads Urban Center petitioned for, and were granted, intervention in this Docket. However, none of these parties participated in discovery, filed testimony, or participated in settlement discussions.

On December 3, 1999, the Parties filed a Stipulation. The positions taken in this Docket by PacifiCorp, the Division, and the Committee,<sup>2</sup> along with the stipulation reached by the Parties, are summarized below.

EVIDENCE PRESENTED

A hearing was held on December 7, 1999. At the hearing, PacifiCorp, the Division, and the Committee presented the Stipulation to the Commission for approval. The Stipulation was marked and admitted as Joint Exhibit 1. The testimony of all witnesses that had previously been filed was marked and admitted into evidence. This testimony consisted of hundreds of pages data and a thorough analysis of the Parties' positions on each of the issues in the docket.

In addition, the Parties presented witnesses in support of approval of the Stipulation. PacifiCorp presented the testimony of Robert R. Dalley, Daniel Peterson, and Scott Jacobson. The Division presented the testimony of Kenneth B. Powell, including two exhibits, Joint Exhibit 2 and Joint Exhibit 3. The Committee presented the testimony of Dr. Laura Linebarger. Each of the witnesses that appeared at the hearing testified that the Stipulation was a fair and reasonable compromise of the positions of the parties and that approval of the Stipulation by the Commission was in the public interest. In addition, uncontested testimony was presented that the depreciation rates in Schedule I to the Stipulation were just and reasonable, that the depreciation rates in

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<sup>2</sup> The Large Customer Group did not make specific recommendations on

Schedule I to the Stipulation were within the range of reasonable rates and reflected trends in the lives and net salvage associated with PacifiCorp's depreciable property, and that the accounting adjustment in Schedule II of the Stipulation was just and reasonable. Finally, uncontested testimony was presented that the Stipulation was the result of difficult, contentious and arm's length negotiations.

No party appeared in opposition to approval of the Stipulation.

#### STIPULATION

Without modifying the terms of the Stipulation in any way, the following is a brief summary of the major terms of the Stipulation. The Parties agreed that the Commission should adopt depreciation rates set forth in Schedule I to the Stipulation and that PacifiCorp should make an accounting adjustment described more fully in Schedule II to the Stipulation. The Parties agreed that these changes should be made effective April 1, 2000. In addition, PacifiCorp agreed to file a depreciation study and an accompanying application for change in depreciation rates and all direct testimony in support of the application on or before October 1, 2002. The study is to be based on depreciable plant balances as of March 31, 2002.

A copy of the Stipulation is attached to this order and incorporated herein.

#### DISCUSSION

The law favoring settling disputes over litigating them is applicable to regulatory proceedings. *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613 (Utah 1983). Statutorily, “[i]nformal resolution, by agreement of the parties, of matters before the

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depreciation rates.

[C]ommission is encouraged. The Commission may approve any agreement after considering the interests of the public and other affected persons.” U.C.A. § 54-7-1. We believe this section of the Utah Code enables the Commission to approve the Stipulation without making a finding that each of the depreciation rates set forth in Schedule I to the Stipulation is the rate we would have determined to be the appropriate rate based on all of the evidence presented. As a result, we will address the Stipulation pursuant to U.C.A. § 54-7-1.

The testimony filed in this Docket demonstrates that this matter was highly contested and thoroughly reviewed and considered. The Parties engaged in extensive discovery and filed hundreds of pages of testimony addressing each aspect of the depreciation rates of PacifiCorp. In addition, testimony presented at the hearing demonstrated that the negotiation of the Stipulation was arm’s length, contentious, and difficult. Each of the Parties was well represented in the negotiations and the parties appear to have had a thorough understanding of the issues. A review of the positions of the Parties on each of the principal issues indicates that stipulated results are within a reasonable range. In fact, on many of the principal issues, at least two of the Parties had positions that were reasonably close. In such instances, the stipulated depreciation rates are based on a result that reflects these positions, in some cases adjusted somewhat toward the position of the other Party.

In addition, we rely on the fact that the Division and the Committee, in their statutory roles, have found the Stipulation to be an acceptable compromise. The Division is charged with representing the public interest, balancing the interests of the Company and its customers. U.C.A. § 54-4a-6. The Committee is charged with representing the interests of residential and small commercial customers. U.C.A. § 54-10-4. We also rely on the fact that the

Large Customer Group, representing significant industrial customers of the Company, joined in the Stipulation. Finally, parties representing a variety of interests intervened in the docket and had the opportunity to challenge any portion of the Stipulation, but did not do so.

Based upon the foregoing, we find and conclude that the depreciation rates and accounting adjustment provided in the Stipulation are just and reasonable and in the public interest. We also find and conclude that the other terms and conditions of the Stipulation are in the public interest.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Stipulation is approved in its entirety without modifying or limiting the foregoing:

1. PacifiCorp shall implement the depreciation rates set forth in Schedule I to this Order effective April 1, 2000.
2. PacifiCorp shall implement the accounting adjustment set forth in Schedule II to this Order effective April 1, 2000.
3. PacifiCorp shall file a depreciation study and an accompanying application for change in depreciation rates and all direct testimony in support of the application on or before October 1, 2002. The study shall be based on depreciable plant balances as of March 31, 2002. PacifiCorp shall otherwise comply with its obligations under paragraphs 18 through 22 of the Stipulation.

Any party aggrieved by this Order may file a petition for review with the Commission within 20 days following the date the Order is issued. If the petition is denied or

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deemed denied by failure of the Commission to act on it within 20 days of the date of filing, the party may file a petition for review with the Utah Supreme Court within 30 days.

DATED at Salt Lake City, Utah, this 6th day of January, 2000.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary