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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)
PacifiCorp and ScottishPower plc for an)
Order Approving the Issuance of)
PacifiCorp Common Stock)

DOCKET NO. 98-2035-04

REPORT AND ORDER

ISSUED: November 23, 1999

<p>SHORT TITLE</p> <p>ScottishPower/PacificCorp Merger</p>

SYNOPSIS

The Public Service Commission of Utah ("Commission") approves ScottishPower plc's ("ScottishPower") purchase of PacifiCorp pursuant to the Agreement and Plan of Merger dated December 6, 1998, amended and restated in the Amended and Restated Agreement and Plan of Merger as of February 23, 1999 ("Merger Agreement"). The Commission grants authority for PacifiCorp to issue common stock as requested in the Application in connection with the merger. The Commission orders PacifiCorp and ScottishPower to implement the \$48 million merger credit over four years reducing rates to tariff customers and to comply with the numerous conditions which are mandated relating to PacifiCorp and ScottishPower in connection with this approval.

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By The Commission:

I. PROCEDURAL HISTORY

On December 31, 1998, PacifiCorp and ScottishPower (collectively "Applicants") filed a Joint Application requesting an Order from the Commission approving the issuance of PacifiCorp common stock incidental to the transaction described in the Agreement and Plan of Merger, dated December 6, 1998, which was later amended and restated in the Amended and Restated Agreement and Plan of Merger as of February 23, 1999 ("Merger Agreement"). Under terms of the Merger Agreement between ScottishPower and PacifiCorp, the outstanding common shares of PacifiCorp will be converted into the right to receive, at the option of the holder of such shares, either newly issued ordinary shares of ScottishPower or such shares represented by American Depository Shares of ScottishPower and evidenced by American Depository Receipts. PacifiCorp shareholders will receive cash payments for fractional shares of ScottishPower ordinary shares or American Depository Receipts. As a result of the transaction, ScottishPower will acquire indirect ownership and control of all of the voting capital stock of PacifiCorp, and PacifiCorp will remain in place.

Applications similar to the one filed in Utah were also filed with the public utility regulatory commissions in the states of California, Idaho, Oregon, Washington and Wyoming and with the Federal Energy Regulatory Commission ("FERC"), each of which regulates PacifiCorp.

On January 25, 1999, the Commission issued a Protective Order which provides a framework for protection of information claimed to be confidential.

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A Prehearing Conference was held pursuant to notice on January 26, 1999, to discuss the schedule, discovery, prefiled testimony, and other issues related to this proceeding. The Commission issued a Scheduling Order dated February 8, 1999, establishing a procedural schedule with a February 17, 1999 deadline for petitions to intervene. The Applicants, the Division of Public Utilities, the Committee of Consumer Services, and each party petitioning to intervene were ordered to file statements on February 17, 1999, identifying the issues to be considered in the case.

The following parties petitioned to intervene: the Utah Associated Municipal Power Systems ("UAMPS"); Deseret Generation & Transmission Co-Operative and its members, Bridger Valley Electric Association, Inc., Dixie-Escalante Rural Electric Association, Inc., Flowell Electric Association, Inc., Garkane Power Association, Inc., Moon Lake Electric Association, Inc., and Mount Wheeler Power, Inc. (collectively "DG&T"); the Utah League of Cities and Towns ("ULCT"); the Land and Water Fund of the Rockies ("LAW Fund"); the Salt Lake Community Action Program ("CAP") and the Crossroads Urban Center ("Crossroads"); the Office of Energy and Resource Planning, State of Utah ("OERP"); the Utah Farm Bureau Federation ("Farm Bureau"); Emery County; Abbot Critical Care, Amoco Oil Company, Fairchild Semiconductor Corporation, Holnam, Inc., Kennecott Utah Copper Corporation, Kimberly-Clark Corporation, Micron Technology, Inc., Praxair, Inc., and Westinghouse/Western Zirconium Division (collectively "Utah Industrial Energy Consumers" or "UIEC"); 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 (collectively "Large Customer Group" or "LCG"); Nucor Steel, a Division of Nucor Corporation ("Nucor"); Magnesium Corporation of America ("Magcorp"); the Department of Community and Economic Development ("DCED") and the Division of Business and Economic Development ("DBED"); and the International Brotherhood of Electrical Workers, Local 57 ("IBEW"). The Commission granted all Petitions to Intervene.

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Issue Statements were filed by the Applicants, Utah Division of Public Utilities ("Division"), Committee of Consumer Services ("Committee"), UAMPS, DG&T, ULCT, LAW Fund, CAP and Crossroads, OERP, Emery County, UIEC, LCG, Magcorp, and DCED and DBED.

Applicants filed their direct testimony on February 26, 1999. A Prehearing Conference was held on March 5, 1999, to discuss the Issue Statements. Additional Issue Statements were filed by LCG/UIEC and the CCS on March 31, 1999. Issues were discussed at a Prehearing Conference on April 2, 1999. The Commission issued a Supplemental Scheduling Order on April 2, 1999, requesting that the parties file memoranda on April 12, 1999, with responsive memoranda filed on April 29, 1999, identifying those issues which are irrelevant and those issues which are relevant, but for which parties other than the Applicants have a burden of proof. The Commission also issued a Memorandum to Parties on April 2, 1999, in which we concluded that the Applicants would have to meet the net positive benefits standard for the merger to be approved. All parties agreed that that was the appropriate standard for this Docket. The Applicants had filed testimony complying with the net positive benefits standard.

On April 16, 1999, the Applicants filed Supplemental Testimony addressing additional issues in the proceeding as well as outlining the commitments and benefits of the transaction.

On May 4, 1999, the Commission held a hearing to discuss issues in the proceeding. Based upon the information presented at the hearing, the Commission issued an Order on May 10, 1999, requiring each party in their Direct Testimony to identify all issues it deemed important. In addition, the parties were to state why each issue should be considered in the Docket, indicate specifically how each issue could be affected by the proposed merger, and set forth the remedy the party was seeking.

On June 18, 1999, the Division, the Committee, UAMPS, DG&T, ULCT, the LAW Fund, CAP/Crossroads, OERP, Emery County, UIEC, LCG, Nucor and DCED/DBED filed Direct Testimony.

On July 16, 1999, the Applicants, the Division, the Committee, the LAW Fund, UIEC, Nucor and IBEW filed Rebuttal Testimony. The Applicants filed Motions to Strike portions of the testimony of Maurice Brubaker for UIEC, Carl N. Stover, Jr. for DG&T, Dennis W. Goins for Nucor, and Tom Dolan for ULCT.

On July 28, 1999, ScottishPower, PacifiCorp, the Division and the Committee entered into and filed a Stipulation in which Applicants agreed to meet 51 conditions addressing specific concerns of the Division and the Committee ("Stipulation").

Pursuant to public notice, the Commission held a public hearing in this matter from August 2 through August 6, and on August 9, 1999. At the hearing, a panel of witnesses testified in support of the Stipulation. The panel consisted of Matthew Wright for ScottishPower, Douglas Larson for PacifiCorp, Lowell E. Alt, Jr. for the Division and Dan Gimble for the Committee. PacifiCorp presented the testimony of Richard T. O'Brien. ScottishPower presented the testimony of Alan V. Richardson, Bob Moir, Robin MacLaren, Andrew MacRitchie, Graham Morris and Jack Kelly. The Division presented the testimony of Lowell E. Alt, Jr., Ronald L. Burrup, Mary H. Cleveland, Robert J. Maloney, William A. Powell and Kenneth B. Powell. The Committee presented the testimony of Daniel E. Gimble, Bruce E. Biewald, Paul Chernick and Neil H. Talbot. UAMPS presented the testimony of Stephen Page Daniel. DG&T presented the testimony of Carl N. Stover, Jr., Carl Albright and R. Leon Bowler. ULCT presented the testimony of Tom Dolan. The LAW Fund presented the testimony of John Nielsen. CAP/Crossroads presented the testimony of Jeff Fox. OERP presented the testimony of Jeffrey S. Burks. Emery County presented the testimony of J. Robert Malko. UIEC presented the testimony of Maurice Brubaker. The LCG presented the testimony of Richard M. Anderson. Nucor presented the testimony of Dennis Goins. DCED/DBED presented the testimony of David B. Winder and Frank Davis.

At the hearing, counsel for UIEC moved to strike certain portions of Andrew MacRitchie's testimony. The Commission denied this Motion to Strike as well as the Applicants' Motions to Strike.

At the hearing, the following Stipulations were presented: the July 28, 1999 Stipulation among ScottishPower, PacifiCorp, the Division and the Committee (Joint Exhibit No.1); the Stipulation and Settlement of Issues Related to Public Purpose Programs among PacifiCorp, ScottishPower, OERP, and the LAW Fund (SP Exhibit No. 7); and the Stipulation and Settlement of Issues Related to Low-Income Customers among PacifiCorp, ScottishPower, Crossroads and CAP (SP Exhibit No. 8). A Stipulation among PacifiCorp, ScottishPower and DG&T was filed with the Commission. In addition, a letter agreement among ScottishPower, DCED and DBED was presented in SP Exhibit No. 1R.1.

On August 6, 1999, the Commission held a public witness day where the following witnesses appeared and provided sworn testimony: Thomas O. Breitling, Julius Hoggard, Barbara Toomer, Roger Monia, Betsy Wolf, Terra Jordan, Henry Eyring, Lee R. Brown, Lew Pilkington, and Richard Laramée. In addition, the Commission received letters from various legislators and others regarding the merger which are on file in this Docket.

On September 3, 1999, the Commission received Post Hearing Briefs from the Applicants, the Division and the Committee jointly, UIEC, LCG, Nucor, Magcorp, DCED/DBED, the Farm Bureau, DG&T and Emery County.

On September 17, 1999, the Commission received Reply Briefs from the Applicants, the Division and the Committee, UIEC, LCG, Nucor and Magcorp.

II. STIPULATIONS

The main provisions of the four stipulations and the letter agreement are summarized below. The full provisions are set forth in the documents themselves and the summaries are not intended to substitute for the text of the stipulations or the letter agreement. The documents are appended to this Order.

A. Stipulation Among ScottishPower, PacifiCorp, the Committee, and the Division Supporting Approval of Merger (Appendix 1)

This Stipulation was executed on July 28, 1999, among Applicants, the Division, and the Committee. The Stipulation resolves all outstanding issues among the signatory parties in

51 proposed conditions plus five implementation provisions. Included as an Attachment to the Stipulation is a list of ScottishPower's Utah commitments, as originally set forth in SP Exhibit 1S.1 to Alan Richardson's Supplemental Testimony (Attachment 1). Also included with the Stipulation is an itemization of merger-related costs for which Applicants commit not to seek rate recovery (Attachment 2).

The Stipulation states that ScottishPower will accept an Order by the Commission which includes the terms set out in the Stipulation. With these terms and conditions, the Division and the Committee testify that ScottishPower and PacifiCorp have satisfied the merger approval standard, positive net benefits to customers. These parties therefore recommend approval of the Application.

The merger conditions contained in the Stipulation include provisions as follows:

Merger Credit. Applicants agree to a merger credit for a four-year period beginning in 2000. The credit will be \$12 million per year for years 2000, 2001, 2002, and 2003. The merger credit for years 2000 and 2001 is guaranteed and will be reflected in rates whether or not a general rate case is held. The merger credit for 2002 and 2003 may be offset or reduced to the extent that cost reductions resulting from the merger are reflected in rates (Condition 43).

Performance Standards and Customer Guarantees. Applicants agree to implement the service quality improvements described in Section I, Customer Service, of Attachment 1 to the Stipulation. These include five network performance standards, two customer service performance standards, and eight customer service guarantees. Conditions 16, and 27-38 of the Stipulation contain additional service quality provisions, and provide that the proposed performance standards and customer service guarantees will be included in PacifiCorp's tariff (Condition 27). In addition, Condition 28 provides that the network expenditures necessary to implement the service standards will be funded from efficiency savings and redirected internal funding.

Transition Plan. Within six months of the closing of the merger, ScottishPower will file a merger transition plan setting forth its plan to transform PacifiCorp's operations. The

plan will include time lines, actions necessary to implement the merger and realize benefits and cost savings, capital and operating expenditures, and workforce changes (Condition 13).

Rate Effects of the Merger. Applicants testify that no merger-related transaction costs will be allowed in the rates (Condition 3); any premium paid by ScottishPower for PacifiCorp stock will be disregarded for ratemaking purposes (Condition 26); and rates in Utah will not increase as a result of the merger (Condition 44). Rates will also be affected by the merger credit as described above.

Financial Issues. Applicants agree that any reduction in the cost of capital will be reflected in rates in Utah, but any increase in the cost of capital of electric operations of PacifiCorp that is a direct result of the merger will be borne by shareholders (Condition 25). Applicants also agree that a hypothetical capital structure based on A-rated electric utilities comparable to PacifiCorp should be used to determine the correct cost of capital for ratemaking purposes (Condition 19). In addition, Applicants agree to maintain separate long-term debt (Condition 21) and to apply to the Commission for approval of debt issuances (Condition 22).

Affiliated Interest and Cost Allocation Issues. Applicants agree to waive any defense that the Commission's jurisdiction over affiliated interest transactions is preempted by the Public Utility Holding Company Act of 1935 (PUHCA) or *Ohio Power v. FERC* (Condition 23). They agree to maintain an audit trail for cost allocations (Condition 2). In addition, Applicants agree in Condition 45 to assume all risks that may result from less than full system cost recovery if interjurisdictional allocation methods differ among PacifiCorp's various state jurisdictions.

Access to Books and Records. Applicants agree to conditions which assure that the Commission will have access to the information and records necessary to perform its regulatory role (Condition 11). Applicants agree to bear reasonable expenses incurred by the Commission, the Division and the Committee in accessing corporate records and personnel located outside the State of Utah.

Enforcement. Condition 50 sets forth a procedure for the enforcement of the merger conditions. If the Commission finds that either ScottishPower or PacifiCorp has violated

one or more conditions, it may make appropriate ratemaking adjustments to give full effect to these conditions.

B. Stipulation and Settlement of Issues Related to Public Purpose Programs among PacifiCorp, ScottishPower, OERP, and the LAW Fund (Appendix 2)

This Stipulation was executed on July 26, 1999, among Applicants, OERP and the LAW Fund. Its purpose is to address the impact of the merger on the environment and public purpose programs. It provides that ScottishPower will produce integrated resource plans according to the current schedule and current Commission rules. ScottishPower will incorporate the recommendations of the Commission's Energy Efficiency and Renewable Energy Task Force in implementing its commitments to develop an additional 50 MW of renewable resources. ScottishPower will file a green resource tariff in Utah. ScottishPower will support funding for cost-effective and prudent energy efficiency in Utah.

C. Stipulation and Settlement of Issues Related to Low-Income Customers among PacifiCorp, ScottishPower, Crossroads and CAP (Appendix 3)

This Stipulation was executed on June 18, 1999, between Applicants, and Crossroads and CAP. Its purpose is to resolve all issues among the signatory parties relating to the impact of the merger on low-income customers.

ScottishPower and PacifiCorp agree to work with the signatory parties and others to identify cost-effective programs that will benefit low-income customers through reduction of energy usage and improvement in customers' ability to pay current and past electric bills. Under the Stipulation, PacifiCorp will support a lifeline rate in Utah and Applicants will fund low-income initiatives in Utah for three years with shareholder funds at \$300,000 more per year than the amount spent on similar programs in Utah in 1998.

D. Stipulation Among PacifiCorp, ScottishPower, and DG&T (Appendix 4)

This Stipulation, executed August 2, 1999, between Applicants and DG&T, provides for discussions between Applicants and DG&T to attempt to resolve any service

reliability problems at the Middleton delivery point, and follow-up efforts to implement any identified solutions.

E. Letter Agreement with DCED and DBED (Appendix 5)

This letter agreement, dated August 3, 1999, is among ScottishPower, DCED and DBED. It sets forth ScottishPower's commitment to locate a senior executive in Utah. According to the letter agreement, this senior executive will report directly to the CEO of PacifiCorp, and will have broad influence over PacifiCorp's operations in Utah, including authority to approve corporate involvement in economic development and corporate citizenship activities. The letter agreement further provides that the corporate offices of PacifiCorp will remain within the states of PacifiCorp's service area, and Utah Power's headquarters will be located in Utah.

F. Discussion and Findings With Respect to the Stipulations

1. Benefits of the Transaction

Stipulations and supporting testimony promise customers certain benefits from the merger. On the basis of these benefits, and the Conditions in the July 28, 1999 Stipulation which signatory parties assert mitigate the risks of the merger and prevent rate recovery of transaction costs, these parties argue the merger meets the net positive benefits approval standard we have adopted. We first consider the merger benefit claims. These arise in two categories, the merger credit and the network performance and customer service improvements. We turn, thereafter, to the other Stipulations.

a. Merger Credit

By the terms of the July 28, 1999 Stipulation (Condition No. 43), a \$12 million credit is provided to customers in each of four years. In the first two years, the credit is guaranteed. In the final two years, the credit can be offset if merger-related cost reductions identified in the new management's "transition plan" are reflected in rates. In the view of these parties, this means a \$48 million merger benefit will be delivered to customers either through a direct credit on their bills or indirectly by reduced rates. The merger credit is offered as a merger benefit.

UIEC, LCG and Nucor (collectively, the "Industrial Customers") challenge the stipulating parties' assertion that the credit is a merger benefit. A merger benefit, they argue, can only be identified through comparison of two operating scenarios, the one with and the other without the merger, which are not on the record. In addition, Nucor asserts that the difficulty of identifying whether costs or savings are merger related invites further argument and undermines the credit's usefulness as an effective remedy to the risks associated with the merger.

Industrial Customers term the amount of the credit insignificant and not much greater than the net present value of the annual corporate cost savings proposed in the Applicants' initial filings. They challenge ScottishPower's claim that it will achieve cost savings once the merged entity is operating under new management, and offer evidence that a properly managed PacifiCorp would do better on its own. They claim (confidential Cross-Examination Exhibit No. 23) that PacifiCorp projects lower operation and maintenance expense levels without the merger than ScottishPower projects with the merger.

Industrial Customers recommend delaying merger approval until the transition plan, containing ScottishPower's proposals to increase efficiency, reduce costs, and realize benefits, has been filed and evaluated.

Applicants dispute the projections prepared by Industrial Customers in Cross-Examination Exhibit No. 23 and their claim that the merger credit is insignificant. The transition plan, the Applicants assert, will identify cost savings in a manner enabling the Commission to discern those that are due to the merger (Stipulation Condition 13). Applicants testify that the transition plan cannot be filed prior to the merger-approval decision, and argue that such a requirement would be both impractical and unnecessary. It would be impractical, they state, because prior to the closing of the transaction ScottishPower faces legal and practical impediments to the development of a meaningful plan; it would be unnecessary because the merger credit is guaranteed whether or not the efficiencies identified in the plan are realized.

We first examine whether the merger credit is, as the Industrial Customers claim, insignificant and turn next to whether it is a merger benefit. We also examine the stipulating parties' intention to employ merger savings (benefits) after the merger in a ratemaking context.

The evidence shows that the analysis in Cross-Examination Exhibit No. 23 is of limited value. Projections made by PacifiCorp of its unmerged operations and by ScottishPower of merged operations reflect differences in starting points and differences in assumptions. Given this, the case comparison is inconclusive as to whether PacifiCorp is capable of a more efficient operation standing alone than merged. The analysis does raise the point, however, that absent the merger, a capable PacifiCorp management should be expected to perform much better than the former management actually has done. We return to this subject below.

When pressed in cross examination, a ScottishPower witness acknowledged that the true benefit of the merger is replacement of PacifiCorp's existing management with a new management that will be focused, committed, and armed with both different management practices and new technologies. With its experience, it will be able to deliver higher quality service to customers at lower cost. These improvements, Applicants assert, will be accomplished faster and with greater certainty than the former management could have done.

The record shows that the non-production operation and maintenance expenses PacifiCorp incurs to provide service have grown in recent years beyond that expected of an efficient utility operation. According to PacifiCorp witnesses, management was "distracted" by a failed global growth strategy and did not control utility costs carefully. Having recognized the problem, PacifiCorp revised its strategic plan and announced its intention to refocus on its core electric business in the western United States, divest all business other than its western business and Powercor Australia, Ltd., and implement a share repurchase program. Changes in management personnel were made at the highest levels, and costs, following a new, short-term "Refocus" plan, are, apparently, now better managed. For the future, however, current management has no specific plan, only the general intention to reduce costs and to increase rates where the Company is earning less than its allowed rate of return. PacifiCorp testifies, and we

conclude, that no detailed and well-formulated business plan exists for PacifiCorp's utility operations in the unmerged case.

By contrast, we find the record contains convincing assurance, in the form of positive, focused attitudes and clear though preliminary statements of initiatives and intentions, that the new management following merger should more capably manage the utility. The promised transition plan -- 'Applicants' "business plan going forward" -- is intended to implement ScottishPower's pledge to reduce costs enough to bring the utility operation to a position of top-ten efficiency within the ranks of domestic electric utilities. We believe the plan, as a statement of management's objectives and initiatives, will be useful to regulatory auditors. It will be, in short, ScottishPower's roadmap to higher quality, more efficiently produced and delivered utility service. On this basis, we conclude that the transition to a new management team poses less risk for customers than would retention of the existing management. Thus, we will not make merger approval contingent upon the transition plan.

We also reject the Industrial Customers' assertion that the merger credit is insignificant. While true that the Applicants have identified in a preliminary way a potential for reducing certain nonproduction costs of providing service by an amount much larger than the merger credit, it is our intention to monitor the utility's post-merger performance carefully. If cost of service declines, a general rate case to set new rates accordingly is the proper response. In this context, it cannot reasonably be said that a \$12 million per year credit to ratepayers is insignificant.

The merger credit, however, is the product of stipulation. As a proposed merger benefit, it circumvents the evaluative procedure upon which the identification of merger benefits normally depends. Differentiating benefits arising from a merger requires two equally well specified scenarios showing how the utility would be efficiently operated and with what results, both with and without the merger. Neither of these scenarios exists at this time. The merged scenario will be the subject of ScottishPower's transition plan, its "business plan going forward," but this will not be completed until six months after merger. The initiatives contained in the plan

are not developed in a public process and are not subject to Commission approval. The unmerged scenario, a business plan for PacifiCorp standing alone, has not been prepared and does not exist. Any future effort to depict a stand-alone PacifiCorp business plan will obviously be an after-the-fact undertaking, one which we believe will inevitably be biased or influenced by the Applicants' merger. Nevertheless, it is clear to us that the credit is a benefit of the merger, and we accept it as such. The Stipulation presents the merger credit as a specific, identifiable annual credit that will be received by Utah customers. The credits to customers' bills during the four-year period are in addition to any savings that Utah customers will receive through the changes in the operations and efficiencies in the utility's service that may be reflected in future rates.

Where the absence of the two scenarios does present a problem is the Stipulation's intention to offset the merger credit with "merger savings" in the last two of the four-year credit period. The concept of a merger benefit is germane to the merger approval decision. When applied to ratemaking considerations, it creates substantial demands upon regulatory rate setting mechanisms and the resources and efforts of the Commission and parties participating in the ratemaking process. We have learned from experience that the injection of the concept of "merger savings" into ratemaking considerations adds considerable complexity and uncertainty to what is already an involved process and risks unintended consequences.

Applicants claim merger savings, a form of merger benefit, are identifiable in the transition plan. Neither the Division nor the Committee is able to testify how, in the absence of the required scenarios, this may be done. Both note that the burden to demonstrate merger savings will be borne by ScottishPower. For its part, ScottishPower simply assures us merger savings will be clearly identified in the transition plan as the result of initiatives that are incremental to any PacifiCorp currently has in place or would have been able to achieve through 1999.

The logical difficulty here is plain. The unmerged scenario does not exist, and there is no indication that it can be developed. The merged scenario, in the form of the transition plan, will be formulated later. In the Division's opinion, to develop and compare two scenarios under

this circumstance would be "folly." The appropriate comparison would be between the merged company's operations and an effectively managed and efficiently run stand-alone PacifiCorp. What PacifiCorp currently has in place or would have been able to achieve through 1999 is not necessarily indicative of the appropriate reference with which to compare the merged utility's operations when offsets to the merger credit are to be considered. When we deal with merger credit offsets, we will require more than a comparison of the merged utility's operations with PacifiCorp's past performance. Due to the lack of any PacifiCorp business plan for the future, we are skeptical of future PacifiCorp stand-alone scenarios. Our general conclusion, therefore, is that the transition plan can demonstrate merger savings only if such savings are uniquely the product of merger. If it does not, there will be no offset to the merger credit in the third and fourth years.

b. Network Performance and Customer Service

Applicants voluntarily commit to provide a comprehensive set of performance standards and customer guarantees for improvements in network performance and customer service. They commit (Condition 28) to funding a five-year, \$55 million investment in customer service and system performance improvements from a redirection of existing budgets and savings in other areas. On this basis, it is their intent to add no new incremental costs for ratepayers to support. ScottishPower testifies that its experience guarantees improvements will occur more quickly, more efficiently, and with greater certainty than PacifiCorp on its own could deliver.

Applicants intend a decline in the duration and frequency of service interruptions which they believe will have an estimated dollar value, based on studies in the literature, in a range of \$30 to \$60 million annually, and up to \$600 million on a net present value basis. Utah customers will benefit, they state, by approximately \$20 million per year from network performance improvement.

The Division believes the voluntary nature of ScottishPower's proposal will save considerable effort and is likely to be more effective than if improvements were instead an imposed requirement. Industrial Customers, by contrast, argue that the benefits of improved

network performance are speculative, unnecessary, and, because the costs are unknown and benefits unsubstantiated, perhaps not cost effective.

Industrial Customers, however, are concerned about service quality and reliability. They testify that ScottishPower's proposed network performance improvements focus on the distribution system rather than the transmission system from which they take service. Any decrease in reliability, they state, would cause them financial harm.

Applicants' focus on the quality and reliability of utility service is most welcome to us. We have experience with regulatory attempts to influence quality and reliability, and are acquainted with the difficulty of gaining improvement when the will is absent and little but an apprehension of the public interest drives the effort. Though we agree with Division testimony on the importance of the voluntary nature of ScottishPower's proposals, the lack of firm evidence upon which to evaluate current performance, coupled with the absence on this record of either baseline performance measures or improvement objectives must influence how we consider the proposal as a merger benefit.

Industrial Customers have raised these concerns, noting that the performance improvement proposals are directed to the distribution system. They question whether the transmission system, at which level they take service, will benefit. The response that can be developed from the record is twofold. First, ScottishPower commits to work closely with the Western Systems Coordinating Council to meet transmission system performance and reliability standards. Second, the high degree of interdependency of transmission and distribution systems implies that successful work on the one depends upon the performance of the other. In a sense, the benefit is indirect. The large size of each industrial customer ensures a direct service relationship with utility representatives, a benefit not enjoyed by the many thousands of smaller customers. We conclude that the Industrial Customers have not established that they will be harmed.

Applicants pledge to reduce the amount of time required to answer telephone calls from customers, and to resolve customer complaints faster. Applicants guarantee payment of a

penalty (usually \$50) to individual customers if certain customer service standards are not met. These include restoration of power supply, keeping appointments, service installation, estimates for installation of new service, responses to bill inquiries, meter testing, planned interruptions, and handling power quality complaints. These customer service proposals also have the merit and value of being voluntary commitments. The relationship customers have with the business office on service concerns is the subject of pending investigation outside this Docket. We have the Division's testimony to assure us that the ScottishPower proposals go beyond what has previously been considered. We accept them as significant in this light.

Nevertheless, our immediate obligation is to assess the network performance and customer service proposal as a merger benefit. According to testimony, Applicants will not complete a baseline assessment of the network until 18 months after the merger is complete. Only then will it be known whether PacifiCorp's current practices are deficient. And only after a finding of deficiency can the scope of Applicants' proposal to redirect \$55 million over five years be understood to further the public interest in an adequate, efficiently operating network. We find that the lack of an evidentiary basis for evaluating either the current performance of the network or placing the proposal in the necessary context of public interest objectives makes quantitative evaluation of this merger benefit difficult. We reach this conclusion advisedly, because we are most interested in a post-merger cooperative approach to network and service evaluation and, as necessary, improvement.

We are also reluctant to place a monetary value on improvements in network performance. Quality and reliability of service are in part qualitative matters, even though dollar figures, of larger or smaller magnitude depending on individual customer's electricity requirements, can be worked up to show the impact of changes in reliability. The range of dollar values introduced by Applicants for service improvements may be suggestive, but it has not been evaluated on this record. Consequently, we will not rely on any dollar valuation of proposed network performance and customer service improvements in reaching our decision about the benefits of merger.

c. Other Stipulations

Stipulation and Settlement of Issues Related to Public Purpose Programs among PacifiCorp, ScottishPower, OERP, and the LAW Fund (SP Exhibit No. 7) was executed on July 26, 1999, to address the impact of the merger on the environment and public purpose programs. Under its terms, ScottishPower will produce integrated resource plans according to the current PacifiCorp schedule and current Commission rules. ScottishPower will incorporate, where appropriate, the recommendations of the Commission's Energy Efficiency and Renewable Energy Task Force including development of an additional 50 MWs of renewable resources within five years, systemwide, and submission of a green pricing tariff within 60 days following approval of the merger. ScottishPower also agrees to support funding for cost-effective and prudent energy efficiency measures in Utah, and will use the integrated resource planning process and other mechanisms to establish Utah energy efficiency targets. ScottishPower will establish an Environmental Forum to provide expertise on such environmental issues as distributive generation, state-sponsored energy programs for national parks and public land management agencies, public buildings, and regional haze.

We find that the Stipulation and settlement of public purpose program issues continues and strengthens PacifiCorp's commitment to environmental protection programs. The Applicants will consider all cost-effective, environmentally benign, supply-side and demand-side resources, to meet customer energy service requirements. We accept the Stipulation, and expect the merged company to work cooperatively with interested groups to further environmental and public-purpose programs.

Stipulation and Settlement of Issues Related to Low-Income Customers among PacifiCorp, ScottishPower, Crossroads and CAP (SP Exhibit No. 8) was executed on June 18, 1999, to resolve all issues among the signatory parties relating to the impact of the merger on low-income customers. ScottishPower and PacifiCorp agree to work with signatory parties and others to identify cost-effective programs that will benefit low-income customers through reduction of energy use and improved ability to pay current and past electric bills.

Under the terms of the Stipulation, Applicants will support a Utah lifeline rate. The rate proposed by Crossroads and CAP in Docket No. 97-035-01 will be a candidate. Applicants will use \$300,000 of shareholder funds for low-income initiatives in Utah each year for three years, an amount over and above that spent by PacifiCorp for similar Utah programs in 1998. Applicants will work with appropriate parties to identify cost-effective programs for low-income customers.

We accept this Stipulation and find that it is in the public interest. We direct the Company to file information with the Division indicating 1998 expenditures on low-income programs so we may track this provision.

Stipulation Among PacifiCorp, ScottishPower, and DG&T was executed August 2, 1999. By its terms, Applicants and DG&T will attempt to resolve any service reliability problems at the Middleton delivery point. We accept this Stipulation and find that it is in the public interest.

2. Affiliation Issues and the Ability to Properly Regulate the Utility

Applicants testify that they agree to comply with all existing statutes and Commission requirements regarding transactions with affiliates, and that the Commission will retain jurisdiction over transactions with affiliates (Condition 23). PacifiCorp will maintain an accounting system separate from ScottishPower's and corporate records will be available for inspection in Utah or Portland, Oregon (Condition 11). They assure us (Conditions 10 and 11) of all necessary access to officers and employees, and to the books and records of ScottishPower, including those pertaining to transactions between PacifiCorp and affiliates. They acknowledge Commission authority to audit any ScottishPower and unregulated subsidiary accounting records that are the basis for charges to PacifiCorp. The Stipulation also requires filing general and financial reports with the Commission (Condition 17).

In other conditions, ScottishPower agrees to maintain current practice whereby an A-rated hypothetical capital structure is used for regulatory determination of PacifiCorp's cost of capital (Condition 19), to adhere to PacifiCorp's previously established Umbrella Loan

Agreement (Condition 14) and Transfer Pricing Policy (Condition 6), and to apply to the Commission for approval of security issuances by or on behalf of PacifiCorp (Condition 22). PacifiCorp is to maintain separate long-term debt (Condition 21). Nonutility businesses or foreign utilities owned by ScottishPower are not to be held by PacifiCorp or its subsidiaries (Condition 4), although this condition does not affect the current holdings of PacifiCorp and its subsidiaries. PacifiCorp, without Commission approval, will not assume any obligation or liability for ScottishPower or its affiliates, nor will PacifiCorp's regulated utility assets be used as backing for securities issued by ScottishPower or its affiliates (Condition 48).

By Condition 5, ScottishPower will notify the Commission of any decision to enter another business or to merge, combine, or sell PacifiCorp stock or assets. In Condition 8, ScottishPower agrees to abide by Commission Rule R746-401, and will notify us of decisions on purchase, sale or other disposition of PacifiCorp assets. We interpret Condition 9 to strengthen this agreement. By it, ScottishPower agrees to seek approval of any decision to divest, spin-off, or sell an "integral utility function."

Stipulation conditions intended to ensure the independent operation of the utility and to protect our ability to regulate it in the public interest are important because the merger brings a number of changes. There will be a new holding company corporate structure, corporate headquarters will be in another country with regulatory practices unlike those here, there will be accounting system differences, and there may be new affiliates with which the utility may develop relationships. Thus, we must be satisfied that Stipulation conditions address key points in language conveying a clear and unambiguous intent to maintain unimpaired our ability to regulate the utility.

Our experience with PacifiCorp following the merger of Utah Power and Pacific Power teaches us to be wary of pre-merger claims that the merger will not complicate our ability to regulate the utility. A merger creates new circumstances, even unanticipated ones. It is necessary to state this, though we recognize that Stipulation conditions are intended, in apparent good faith, to protect our ability to regulate the utility in the public interest.

Stipulation conditions address concerns about regulating the utility in a new holding company structure not only through guaranteed access to employees, books and records, but through ScottishPower's commitment to work with regulators on the allocation of corporate and other costs from ScottishPower to PacifiCorp. We note approvingly the commitment to provide access to books and records of both sides of transactions between affiliates and PacifiCorp, the agreement to comply with statutes and regulations regarding affiliate transactions, and the commitment not to subsidize affiliates through PacifiCorp. We accept Applicants' statement that Stipulation conditions are designed to prevent subsidization of nonutility operations through affiliated interest transactions or cost allocations, and that any cost allocation method adopted will comply with principles set forth in the Stipulation requiring both adequate documentation and complete and effective audit (Condition 2).

We accept and will rely on the ScottishPower and PacifiCorp agreement to waive any defense they may have that our jurisdiction over affiliated interest transactions is preempted by the PUHCA or *Ohio Power v. FERC* (Condition 23). We likewise accept and will rely on their agreement to notify us of any proposed change in corporate structure (Condition 49), including the relationship between PacifiCorp and affiliates, whether through creation of a new affiliate, new business transactions with an existing affiliate, or dissolving an affiliate with which PacifiCorp has done business (Condition 7).

Nevertheless, our review of the record reveals aspects of these conditions that require comment and interpretation before we can accept them. Neither Condition 7 nor 47 requires obtaining Commission approval, only notification. Notification enables the Division to perform its auditing task. Condition 2 may bind the Division to interjurisdictional agreements reached by staffs of the several state commissions on allocation issues. Condition 9 may unacceptably delimit the necessity of Commission approval for divestiture, spin-off or sale to transactions involving an "integral utility function," an undefined term.

By law, the Division is our investigative staff. We depend upon its independent evaluation of all aspects of issues before us. If, by entering into agreement with the Company and

the staffs of other commissions, it is prevented from thoroughly airing issues on the record in our proceedings, it cannot adequately perform its duties. The Division must not be bound by any interjurisdictional allocation agreement which threatens its independent investigative role. We therefore rely on the Division's on-the-record statement that Condition 2 will not bind it in this way. We expect the Division to inform us immediately should this reliance prove inappropriate.

Condition 9 uses the undefined term "integral utility function." A ScottishPower witness testifies that the term is intended to limit the necessity of regulatory approval to situations involving more than just any utility asset. Division and Committee witnesses say the Condition is intended to apply to any asset that is "important enough." Noting these expressions of regulatory intent, we will rely on the Division and Committee statement that the Condition is to apply to assets that reach some threshold of importance. The Commission will decide in future cases when the threshold is met.

Industrial Customers contend and the record establishes that the Condition does not cover cases of "spin-down," that is, when utility assets are transferred to a subsidiary. We agree with Industrial Customers that spin-down must be covered by the Condition and will order modification to include it.

3. Merger-Related Transaction Costs.

Applicants stipulate that neither merger-related transaction costs nor the acquisition premium will be recovered in rates (Conditions 3, 26). Transactions costs are listed in Attachment 2 to the Stipulation, as is the premium. ScottishPower and PacifiCorp testify that this is a complete list of merger transactions costs, and give the total as \$259.8 million. The Division and the Committee accept this statement.

The Division quantified the value of the acquisition premium to be approximately \$1.6 billion on the day the merger was announced, December 7, 1998. In the merger, a share of PacifiCorp common stock can be converted into .58 American Depositary Receipts of ScottishPower, traded in dollars on the New York Stock Exchange, or 2.32 ordinary shares of ScottishPower, traded on the London Stock Exchange. Ultimately the value of the acquisition

premium will be determined by the values of PacifiCorp and ScottishPower share prices when the merger closes. The merger is to be closed five days after all necessary approvals have been obtained. As the necessary approvals and the expectation of the merger become more certain, we would expect the acquisition premium to decline, reflecting the fixed conversion rate of PacifiCorp shares for ScottishPower shares since the share prices decreasingly reflect the values of independent companies.

The acquisition premium, ScottishPower states, will appear on its books as goodwill, to be amortized over a number of years. PacifiCorp's separate books are said to insulate it from the premium. Industrial Customers caution that the transaction costs and acquisition premium place additional pressure on the Applicants to obtain significant cost reductions from utility operations.

Industrial Customers question whether ScottishPower might seek to recover the premium as a stranded cost. They argue that payment of a large acquisition premium is evidence PacifiCorp faces no stranded costs and urge the Commission, as a condition of merger approval, to require Applicants to renounce any future claim to recover PacifiCorp stranded costs.

The record leaves some doubt about possible effects of the premium even though cited Stipulation conditions are intended to insulate the utility and its customers from any recovery of it. The Division interprets Condition 26 to prevent recovery of the premium in stranded costs. Applicants state that accounting for goodwill reduces earnings during the amortization period. Asked whether this will increase PacifiCorp's cost of capital, they respond that it will not for two reasons. First, PacifiCorp's books will be separate and a hypothetical capital structure will be used to determine its cost of capital. Second, investors will be influenced more by cash flow than by the premium's effect on earnings.

Should the acquisition premium be large, and we understand that its magnitude varies with the share prices of both ScottishPower and PacifiCorp, we are concerned that management may be pressured to make up its effects on earnings from utility operations. The \$260 million in transaction costs may exert similar pressure. We will rely on the Division to

inform us if and when evidence of such effects arises. Our overall conclusion, however, relying on the clear testimony of the Division, the Committee and the Applicants, is that neither the premium nor the transaction costs will affect rates.

Industrial Customers assert that the acquisition premium should end the stranded cost debate. The Division, too, states, "the willingness of ScottishPower to pay an acquisition premium may be an indication that PacifiCorp would not face any stranded costs if the electric industry were restructured." These statements are cogent but they do not lead us to decide the issue on this record. We are aware, for example, of conflicting definitions of stranded costs. The subject is both complex and controversial. We defer judgment about such costs, and the effect of the premium, to an appropriate docket.

In our review of the record on transaction costs and of the Stipulation conditions which pertain to them, we find no mention of the possibility that some costs may not yet have been identified. Applicants believe the list in Stipulation Attachment 2 is complete. The Division and the Committee have no independent opinion. Common sense suggests that costs other than those in Attachment 2 may exist. For instance, we note that the time spent pursuing the merger by senior officials of PacifiCorp is not listed as a transaction cost. Competent audit may reveal other examples as well.

To assure us that no transaction cost is recovered in rates, the Division testifies that it will perform an audit and act upon its results in a general rate case. We will rely on this. Such an audit is necessary to ensure that all transaction costs, including any not identified by the Applicants, are accounted for below-the-line.

4. Duties Of A Regulated Utility

Several Stipulation conditions express an acknowledgment of the statutes and Commission requirements pertaining to a regulated electric utility doing business in the state of Utah (among others, conditions 5, 8, 15, 39, 41, 46, and 49). The purpose of these conditions is to reduce ambiguity, to clarify and ensure the Applicants recognize and understand their statutory obligation to abide by the Utah Code, rules and Commission orders. As such, these conditions

are not a merger benefit, and only in a minimal way may they be said to mitigate its associated risks. For this reason, they do not weigh heavily in our consideration whether the merger meets the net positive benefits standard.

5. Risks of The Merger

Industrial Customers identify a number of risks of the merger transaction. In their view, the magnitude of the acquisition premium and transaction costs may pressure management to reduce utility costs significantly, yielding the risk that necessary maintenance, investment, and system improvement may not be forthcoming. In order to meet a dividend objective, they state, customers may be at risk of decreased service reliability and higher long-term costs. In addition, they point to the intention of Applicants to recover the costs of transition plan initiatives from ratepayers; if cost savings are not realized, they argue, customers may face rate increases. Industrial Customers are also concerned that changes in the regulatory climate in the United Kingdom, ScottishPower's goal to become an international multi-utility, and its holding company corporate structure may cause a loss of focus on the utility in the west, create pressure for cost reductions there, and weaken this Commission's ability to regulate the utility in the public interest.

Applicants claim the conditions reached in the July 28, 1999 Stipulation with the Division and the Committee neutralize merger risks. They cite DPU Exhibit 1.0 SR, which lists the issues of concern to the Division and shows how the conditions address them. The merger, Applicants state, is a simple stock transaction, involving only a change in the shareholders of PacifiCorp. They testify that PacifiCorp will operate its regulated utility within the corporate structure on an independent basis, the Commission will continue to exercise the regulatory oversight it does today, and certain Stipulation conditions including numbers 11 (access to books and records), 12 (annual merger savings reports for five years), and 17 (reports to be filed by PacifiCorp) ensure that the information necessary to effective regulation will continue to be provided. Applicants maintain in addition that risks of the merger are outweighed by its benefits, and argue that nothing on the record supports the assertion that the merger may undermine

effective regulation. The Division and the Committee testify that Stipulation conditions adequately mitigate the risks faced by Utah customers.

We find record support for the position of the Applicants, the Division and the Committee. In addition to Conditions 11, 12, and 17, we have acknowledged the conditions cited in our discussion of Affiliation Issues which guarantee the independence of the utility within the holding company structure, insulate it from the financial affairs of the overall corporation, and provide an independent basis for estimating the utility's cost of capital. We rely on these conditions for assurance that the utility will not be adversely affected by either regulatory events in the United Kingdom or the business strategies of the overall corporation. We find that cost recovery for initiatives in the transition plan is not unusual. We expect a competent management to develop plans for the efficient and effective operation of the utility, and unless the resulting costs of providing utility service were either unreasonable or illegitimate, they would be recoverable in rates through our normal ratemaking process. We have considered the risks of the merger and find that they are adequately mitigated by the Stipulation's conditions.

III. OTHER ISSUES RAISED BY THE PARTIES

A. The Legal Standard

The Commission must determine whether merger of ScottishPower and PacifiCorp is in the public interest and has interpreted applicable statutory language (UCA 54-4-31) to mean that a merger, to be approved, must meet a net positive benefit standard. See CP National Corp., Docket No. 80-023-01; Utah Power & Light and Pacific Power & Light Companies, Docket No. 87-035-27. In Docket No. 87-035-27, the Commission stated that its "task is to consider them all [positive benefits and negative impacts], giving each its proper weight, and determine whether on balance the merger is beneficial or detrimental to the public." By Memorandum issued April 2, 1999, we notified parties that the net positive benefit standard would be employed in the present Docket, all parties having agreed to it and the Applicants having, by that time, filed testimony in full cognizance of it. Applicants, however, reserve the argument that Utah law requires a no-harm standard only.

B. Potential Tax Savings

The Industrial Customers request that we address potential income tax savings resulting from the acquisition of PacifiCorp in this Docket. Applicants oppose this, and based in part on confidential Cross-Examination Exhibit No. 3, argue that the tax impact on the ScottishPower holding company from acquisition of PacifiCorp may or may not be a savings. The Division testifies that Utah regulation generally does not consider the tax consequences of consolidated operations, but acknowledges that, if considered, it should be a rate case issue. The Committee agrees with the Division.

Applicants argue potential tax savings will not arise from the transaction itself, but from the calculation of the tax liability on an ongoing basis following the transaction. Any such tax saving is speculative, they assert, because it would depend on tax law and policy in existence at the time the tax liability is calculated. For these reasons, Applicants argue the issue cannot properly be addressed in this proceeding, but should be reserved for a subsequent general rate proceeding when the facts regarding the tax liability after the transaction are known. Applicants offer the following to resolve the consolidated tax issue:

The parties to this Docket preserve their right to raise the issue of the treatment of upstream tax savings and costs in future rate cases. All parties preserve their positions and have not waived their rights on this issue. ScottishPower commits to retain records regarding upstream tax savings and costs relating to the merger and make these records available to the DPU, CCS and other parties in accordance with Stipulation Ex. 1 and the discovery rules of the Commission.

UIEC accepts this language if the information necessary to assess the magnitude of savings is forthcoming from ScottishPower and if it allows the Commission to decide what the savings are and how they should be shared.

The Commission will adopt Applicants' proposed language. Only after consideration in a general rate case will it be known whether tax savings, if any materialize, should be passed through to PacifiCorp ratepayers. We will not impose a merger approval

condition requiring tax benefits to flow to ratepayers, but will make the language advanced by Applicants a condition of approval. This new condition properly preserves the issue for subsequent general rate treatment.

C. Rate Cap Proposal

Industrial Customers and the Farm Bureau recommend a rate cap to ensure that the merger will meet the public interest standard. They believe the costs and risks of the merger outweigh its benefits, even with the Stipulations in place, and argue the Stipulations do little to mitigate risks either to the general body of ratepayers or to their particular interest as large industrial consumers of electricity. Since the costs of implementing the transition plan initiatives may be recovered from ratepayers, and the anticipated cost reductions are uncertain and are neither identified nor quantified, these parties argue that a rate cap plan would equalize the risks and benefits of the merger and protect ratepayers from any failure to achieve the plan's objectives. A rate cap, they argue, would provide a proper incentive to make beneficial changes that reduce cost and would limit debate about what costs would have been absent the merger.

Applicants maintain the evidence shows that a rate cap is not required to establish that the merger yields net positive benefits for Utah customers, and that the Stipulations have satisfied the concerns of other parties, with the principal exception of the Industrial Customers. Applicants further argue that a rate cap is not a good option because it cannot take into account business circumstances unrelated to the merger.

Although the Division began this proceeding by supporting a rate cap, it now concludes that a rate cap is unnecessary as a result of the conditions reached in the Stipulation. The Division and the Committee testify that the potential risks of the merger are adequately mitigated by Stipulation conditions, so that a rate cap is not required to enable the merger to meet the net public benefit standard.

We find record support for the position of the Applicants, the Division and the Committee, and on that basis conclude that a rate cap is not required for the merger to satisfy the

approval standard. The conditions set forth in the Stipulation provide appropriate protections for customers.

D. Cash Balances of PacifiCorp

Industrial Customers raise a concern regarding cash held in PacifiCorp. They argue that conditions must be in place to prevent the movement of this cash upstream in the merged entity at least until Utah service quality has been found adequate. Applicants in response name several Stipulation conditions said to address the issue, including their agreement in Condition 14 to the provisions of PacifiCorp's existing Umbrella Loan Agreement placing limits on short-term loans between PacifiCorp and affiliates, naming ScottishPower an affiliate for purposes of the Condition. Applicants point to Condition 22, by which the Commission must approve the issuance of PacifiCorp debt, Condition 15, governing dividend policy, Condition 49, requiring adequate financial resources to enable PacifiCorp to meet its public service obligations, and Conditions 16 and 27-39, which deal with service quality.

The Commission is aware that PacifiCorp entered merger negotiations with large cash balances on hand. These arose from sale of subsidiary activities in areas beyond our regulatory jurisdiction. Our obligation is to ensure that the utility is able to provide public service of adequate quality and reliability. Therefore, given the record in this Docket, we look to the Stipulation for assurance that the merger will not damage, and may in fact enhance, this ability. We find a number of conditions, including those mentioned by Applicants, that not only directly address the financial wherewithal of the utility but create a situation of independence for it within the corporate structure of the merged entity. The record shows that two of these conditions, numbers 14 (umbrella loan agreement) and 15 (dividend policy and adequate capital), were adopted at the suggestion of the Industrial Customers. For these reasons, we conclude that we need not inquire further into the issue of cash balances in this Docket.

E. Access to Employees and Records

Industrial Customers request access to employees and records for Intervenors in the same manner as is assured for representatives of the Division and the Committee.

Condition 11 provides for access to relevant books, records and officials of ScottishPower entities. Applicants pledge that corporate records will be available for inspection in Utah or Portland, Oregon, and that Intervenors will have, as is the current practice, access to records there. ScottishPower, PacifiCorp and all affiliates are required by Condition 10 of the Stipulation to make their employees, officers, directors and agents available to testify and to provide information.

In light of the various measures in the Stipulation which address this issue, the Commission concludes that further provisions are unnecessary. Industrial Customers, as intervenors in Commission proceedings, will retain the same access to books, records, and officials of the utility that they have under current practices.

F. Utah Presence

Industrial Customers recommend a merger approval condition which would require ScottishPower and PacifiCorp to provide agents in Utah capable of binding PacifiCorp and making decisions regarding Utah operations. Applicants' response is the letter agreement with the DCED and DBED (SP Exhibit 1R.1), wherein ScottishPower pledges to place a senior executive in residence in Utah. That executive, the letter states, will report directly to the CEO of PacifiCorp, will have "broad influence" over PacifiCorp's operations in Utah, and will handle economic development and community concerns. In addition, Applicants state that Utah Power headquarters will be located in Utah.

The Utah Power/Pacific Power merger creating PacifiCorp electric operations doing business in Utah as Utah Power has taught this Commission that when made at a distance corporate decisions may reflect a ranking of investment options different from that a local perspective may have achieved. This is an oblique way of saying that our resulting concern for the proper maintenance and operation of the public utility in Utah is not wholly assuaged by the letter agreement to place an executive in Utah whose responsibilities might be interpreted to center instead on area economic development and the merged entity's community presence. While we acknowledge the importance of these, our obligation rests with the adequacy and

reliability of utility service in this State. Service quality and reliability turn not only on the utility's maintenance but its investment practices. Corporate investment decisions, the letter suggests, will not be the concern of the individual posted to Utah, but solely that of senior management in Glasgow, Scotland, or perhaps Portland, Oregon.

We do not expect to alter this situation, which is, we believe, a matter of management prerogative. Nevertheless, distant corporate decisions must neither rank nor allocate resources in a manner harmful, in either the short- or the long run, to the public service requirements of this utility in Utah. As this record shows, PacifiCorp in recent years pursued a global business strategy which resulted in neglect of its utility responsibilities.

The first priority of the executive located in Utah must be maintenance of a high-quality Utah utility operation. We accept the letter agreement as indication of such a commitment. We rely on the record testimony of senior ScottishPower officials revealing the attitudes, experience, and expertise necessary to a high-quality result. We further rely on Stipulation conditions which both direct that result and provide for effective regulation. For these reasons, we will not impose the merger approval condition advanced by Industrial Customers.

G. Participation in a Regional Transmission Organization

Industrial Customers recommend as a requirement of merger approval that Applicants join a regional transmission organization within 24 months after merger. In the alternative, Industrial Customers request a condition requiring Applicants to file, within 18 months after the merger is approved, a definitive plan to place transmission assets with an independent third-party administrator. In this way, they argue, the Commission could have a meaningful impact on the characteristics of such an organization. They regard such a role for the Commission as important.

Applicants respond that the merger will not affect either the availability of transmission services or competitive issues. Applicants point out that UIEC intervened at FERC and argued that the ScottishPower/PacifiCorp transaction would have an adverse impact on competition. FERC was asked by UIEC to condition approval of the merger on the Applicants

participating in the formation of and joining a regional transmission organization. Because ScottishPower and PacifiCorp do not compete in the same geographic markets, FERC found that market concentration would be unchanged by the merger. FERC declined to impose the condition.

UIEC acknowledges that mergers in which approval depended on a requirement to join a regional transmission organization were situations where enhancement of market power was a concern. The record shows no such concern exists here. Moreover, no regional transmission organization now exists for PacifiCorp to join. In the recent past, PacifiCorp attempted to form such an organization, but without success.

We do note, however, that FERC has established a Notice of Proposed Rulemaking, Docket RM99-2 regarding "Regional Transmission Organizations" and proposes to establish characteristics and functions for appropriate regional transmission organizations. Under terms of the rulemaking, participation in an organization would be voluntary rather than ordered by a state commission.

Due to differences between the laws, regulations and level of regulation in the United Kingdom and that in Utah, we find no support for Industrial Customers' insistence that the "special share" held by the United Kingdom government, supports the proposed requirement. We rely on the Supplemental Testimony of Applicant's witness Alan Richardson, which states:

The practical effect of the "special share" is to require government approval before control of ScottishPower may be transferred, much like the regulatory statutes in many of the states which require utility commission approval before control of a regulated utility passes to another. It comes into play only if a transfer of ownership of ScottishPower is involved, and does not in any way impose any restrictions on the actions which ScottishPower may take with respect to its own business or PacifiCorp.

Membership in a regional transmission organization does not require the sale of transmission assets.

We find that the issue of participation in a regional transmission organization is unrelated to the merger. Enhancement of market power, the basis for an approval condition in other mergers, is not an issue here. The record shows that FERC reached the same conclusion. We therefore decline to impose the condition suggested by Industrial Customers, but intend to influence the development of any future organization involving the merged company.

H. Special Contracts

Industrial Customers recommend that special contracts that expire during the merger-credit period (through December 31, 2003) be extended for that period if desired by the customer. Industrial Customers support this request with the claim that special contract negotiations were unilaterally terminated once the application in this docket was filed. They believe that nothing today suggests that current costs of the special contracts will fail to be compensatory through the transition period. They argue that, as a result of the operational efficiencies Applicants claim for the merger, there is little risk that either the company or its tariffed customers will be harmed if special contracts are extended as requested. Finally, the Industrial Customers claim that special contract customers need protection against merger-related risks; thus, it would be discriminatory to deny extension of the contracts while tariffed customers receive the benefit of the merger credit.

Applicants respond that following the merger all contractual obligations will be honored. For this reason, they testify, the Industrial Customers' proposal is unnecessary. Applicants cite the Commission's March 4, 1999 Report and Order in Docket No. 97-035-01 which established a task force to study standards the Commission should employ to approve special contracts. In the Order, the Commission stated that guidelines and definitions for regulatory treatment of special contracts should be examined, as should risk-sharing between the Company and its customers. The Commission ordered an evaluation of the confidential treatment customarily given the rates and terms of service in Utah special contracts, given an increasingly competitive environment. Applicants assert that evaluation of special contracts should come after

completion of the merger and that it should be done in parallel with the work of this task force. For these reasons, they argue, discussion of special contracts is premature.

Applicants believe the record contains no evidence to support the assertion that the merger has influenced either the timing of negotiations or Applicants' willingness to negotiate. The contention that costs in current contracts will remain compensatory throughout the period ending December 31, 2003, they also view as unsupported. Applicants disagree that merger-related cost reductions could eliminate risks of serving special contract customers at current prices through that period. To the claim that special contract customers need special protection, Applicants cite the Commission's response to similar argument in Docket No. 87-035-27, the Utah Power/Pacific Power merger proceeding: "[I]n this era of increased competition and low energy prices the industrial customers have other options for power supply. . . . It is therefore unlikely that these customers will be left "holding the bag" after the merger is consummated."

The Division testifies that regulatory approval of current Utah special contracts was based on analyses showing PacifiCorp had no need of additional capacity during the term of those contracts. The Division indicates it is aware of changes in PacifiCorp's load and resource balance that could now require capacity additions. Applicants contend that the need for new capacity will not be affected by merger cost reductions. They state that PacifiCorp is facing potential changes in its load and resource balances.

The Division argues that contracts and any extensions should be evaluated based on circumstances at the time they are negotiated. Current procedures allow for such review.

The Commission's reasoning in the prior merger case is applicable to special contract customer arguments in the present Docket as well. These customers are eligible for special contracts because they have other options for power supply. We intend to hold Applicants to their commitment to address special contract customer concerns in good faith and to complete any negotiations with them promptly. We do not find adequate evidence on the record to support the claim that the merger will alter the risks these customers face, or the alternatives they have. Nor do we believe this proceeding is the forum to resolve special contract issues. As noted by

Applicants, a regulatory task force is now reviewing special contract issues. The conditions in the July 28, 1999 Stipulation, along with the assurances made on the record at the hearings, provide protection against the perceived risks that the Industrial Customers claim exist for special contract customers. On this basis, we reject the request to require extension of special contracts.

I. Franchise Issues

The Utah League of Cities and Towns requests a condition of merger approval that would require Applicants to "reopen current franchise agreements." Applicants argue that abrogation of contracts, including franchise agreements, is not appropriate. We find that the record shows that the issue of franchise agreements is an inappropriate merger-approval consideration. Whether or not franchise agreements permit ScottishPower to step into PacifiCorp's position, or whether separate approvals are required under those agreements, are matters of law that are beyond our jurisdiction. This is not the appropriate forum in which to address such matters.

J. Magnesium Corporation of America ("Magcorp") Issues

Magcorp argues that it is excluded from the benefits of the Stipulation and "denied the opportunity to negotiate a future supply arrangement." As a result, it contends decertification is the appropriate remedy. Applicants respond that this in effect is a request for revocation of PacifiCorp's certificate so that a retail access zone could be created for Magcorp. Applicants claim there is no evidence to justify revocation of PacifiCorp's certificate. Applicants further state that Magcorp cites no case or statute which would justify creation of a separate regulatory structure for Magcorp.

We again note Applicants' commitment to commence and promptly complete negotiations regarding supply arrangements. Neither Magcorp's assertions nor its proposed condition are supported on this record. Retail access is currently under review by the Utah legislature. We find that Magcorp's issues are not merger related and are therefore not relevant to this Docket, but we may need to address them in a future docket.

IV. CONCLUSIONS

Based upon the foregoing Discussion and Findings, the Commission makes the following conclusions of law.

1. All hearings held in this case were properly noticed and were conducted in accordance with the Commission's hearing procedures. All persons with a valid interest in the case, who desired to intervene, were allowed to do so. All parties were given adequate opportunity to conduct discovery, present evidence, cross examine evidence introduced by others, and to make argument on relevant issues properly before the Commission.

2. PacifiCorp, doing business in Utah as Utah Power and Light Company, is an electrical corporation as defined in Utah Code Ann. § 54-2-1(6) and a public utility as defined in Utah Code Ann. § 54-2-1(14). The Commission has authority to regulate PacifiCorp in the State of Utah and to supervise all of the public utility business of PacifiCorp in the State of Utah pursuant to Utah Code Ann. § 54-4-1.

3. ScottishPower is a public limited company registered in Scotland, with multi-utility businesses located in the United Kingdom. After consummation of the merger between PacifiCorp and ScottishPower, PacifiCorp will become an indirectly wholly-owned subsidiary of ScottishPower.

4. Based upon its findings of fact, the Commission concludes that the stipulations and the letter agreement executed by PacifiCorp, ScottishPower, and the various signatory parties, should be approved. The Commission concludes that the proposed merger, as modified by the stipulations, the letter agreement, the merger conditions contained therein and the further conditions set forth in this Order, meets the net positive benefit standard and will serve PacifiCorp's customers in the public interest, as required by Utah Code Ann. § 54-4-31. The Commission further concludes that because the proposed merger as modified meets the requirements of Utah Code Ann. 54-4-31, PacifiCorp should be authorized to issue common stock incidental to the proposed transaction.

V. ORDER

NOW, THEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY ORDERED, that:

1. The Stipulation executed on July 28, 1999, by ScottishPower, PacifiCorp, the Division and the Committee (Joint Exhibit No. 1), as modified herein with respect to Condition 9, is adopted by the Commission and incorporated by reference in this Order.

2. The Stipulation and Settlement of Issues Related to Public Purposes Programs executed on July 26, 1999, by ScottishPower, PacifiCorp, OERP and the LAW Fund (SP Exhibit No. 7) is adopted by the Commission and incorporated by reference in this Order.

3. The Stipulation and Settlement of Issues Relating to Low Income Customers, executed on June 18, 1999, by ScottishPower, PacifiCorp, Crossroads and CAP (SP Exhibit No. 8) is adopted by the Commission and incorporated by reference in this Order.

4. The Stipulation among PacifiCorp, ScottishPower, and DG&T, executed August 2, 1999, is adopted by the Commission and incorporated by reference in the Order.

5. The Letter Agreement among ScottishPower, DCED, and DBED dated August 3, 1999 (SP Exhibit No. 1R.1), as interpreted herein, is adopted by the Commission and incorporated by reference in this Order.

6. The following is adopted as an additional condition to approval of the merger:

The parties to this Docket preserve their right to raise the issue of the treatment of upstream tax savings and costs in future rate cases. All parties preserve their positions and have not waived their rights on this issue. ScottishPower commits to retain records regarding upstream tax savings and costs relating to the merger and make these records available to the DPU, CCS and other parties in accordance with Stipulation Ex. 1 and the discovery rules of the Commission.

7. The joint application of PacifiCorp and ScottishPower plc for a Commission order authorizing the issuance of PacifiCorp common stock incidental to the proposed transaction, pursuant to Utah Code Ann. § 54-4-31, is granted.

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8. The grant of the joint application in Ordering Paragraph 6 above is subject to the merger conditions contained in Attachment 1, and the commitments contained in Attachment 2, appended to the Stipulation executed on July 26, 1999, by ScottishPower, PacifiCorp, the Division, and the Committee (Joint Exhibit No. 1).

9. The merger of an indirect subsidiary of ScottishPower plc with and into PacifiCorp pursuant to the Agreement and Plan of Merger dated December 6, 1998, amended and restated in the Amended and Restated Agreement and Plan of Merger as of February 23, 1999, is hereby approved.

DATED at Salt Lake City, Utah, this 23rd day of November, 1999.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

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APPENDICES

1. July 28, 1999 Stipulation Among ScottishPower, PacifiCorp, the Committee and the Division Supporting Approval of Merger.
2. July 26, 1999 Stipulation and Settlement of Issues Related to Public Purpose Programs among PacifiCorp, ScottishPower, OERP, and the LAW Fund.
3. June 18, 1999 Stipulation and Settlement of Issues Related to Low-Income Customers among PacifiCorp, ScottishPower, Crossroads and CAP.
4. August 2, 1999 Stipulation Among PacifiCorp, ScottishPower, and DG&T.
5. August 3, 1999 Letter Agreement with DCED and DBED.

APPENDIX 1

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In The Matter of The Application of
PacifiCorp And ScottishPower plc for an
Order Approving the Issuance of PacifiCorp
Common Stock

DOCKET NO. 98-2035-04

STIPULATION

This Stipulation ("Stipulation") is entered into among PacifiCorp ("PacifiCorp"), ScottishPower plc ("ScottishPower"), the Division of Public Utilities ("DPU") and the Committee of Consumer Services ("CCS"). PacifiCorp and ScottishPower are referred to jointly as the "Applicants". References to ScottishPower shall include New ScottishPower plc, as defined in the Amended and Restated Agreement and Plan of Merger, dated as of December 6, 1998 and amended as of January 29, 1999 and February 9, 1999. PacifiCorp, ScottishPower, DPU, and CCS are referred to individually as a "Party" and collectively as "Parties".

BACKGROUND

A. PacifiCorp is an Oregon corporation and an electric public utility in the state of Utah. PacifiCorp provides retail electric service in the states of California, Idaho, Oregon, Utah, Washington, and Wyoming.

B. ScottishPower is a public limited company in Scotland. ScottishPower provides retail electric service in the United Kingdom and, through its subsidiaries, also provides telecommunications, water, and waste water services.

C. On December 31, 1998, PacifiCorp and ScottishPower filed an Application with the Public Service Commission of Utah ("Commission") requesting an Order approving the issuance of PacifiCorp common stock, pursuant to Utah Code Ann. §54-4-31, in connection with a merger transaction whereby PacifiCorp shall become a wholly owned, indirect subsidiary of ScottishPower.

D. The DPU and the CCS have reviewed the Application, the prefiled testimony of the Applicants, and the responses to extensive discovery requests submitted by parties to this and other proceedings. On June 18, 1999, the DPU filed testimony in this proceeding, recommending that the merger be approved by the Commission, subject to adoption of conditions proposed by the DPU. The CCS filed testimony recommending that the merger be rejected by the Commission unless adequate conditions, including a credible rate plan for Utah retail customers, were imposed.

E. PacifiCorp, ScottishPower, the DPU, and the CCS have met to discuss the proposed transaction and resolve as many of the DPU's proposed conditions and the CCS's issues

as possible. This Stipulation constitutes the negotiated resolution of all of the issues between the Applicants, the DPU, and the CCS. ScottishPower agrees that it is willing to accept an Order issued by the Commission with the terms set out in this Stipulation. Based upon the terms and conditions of this Stipulation, DPU and CCS acknowledge that ScottishPower and PacifiCorp have satisfied the standard in Utah for Commission approval of the proposed merger transaction and recommend that the Commission approve the Application, incorporating the conditions of this Stipulation.

TERMS OF STIPULATION

The terms and conditions of this Stipulation are set forth below.

1. ScottishPower and PacifiCorp shall agree to all commitments and conditions as included in Witness Alan Richardson's Supplemental Testimony Exhibit AVR-1 (a copy of which is attached as Attachment 1). In the event of any conflict between Attachment 1 and this Stipulation, the terms of this Stipulation shall govern.

2. On June 18, 1999, ScottishPower and PacifiCorp filed a proposed cost allocation methodology for the allocation of corporate and affiliate investments, expenses, and overheads. In or about October 1999, PacifiCorp and ScottishPower shall schedule a conference/meeting with regulators in all PacifiCorp states (including CCS in Utah) to discuss the proposed and alternative corporate and affiliate cost allocation methodologies. The DPU agrees to use its reasonable best efforts to reach agreement with the other state regulators as to the corporate cost allocation methodology to be recommended to the respective state commissions. In the event the state regulators are unable to reach agreement or the DPU concludes that the methodology supported by any of the other U.S. regulatory states would cause actual or perceived financial harm or inequity (on the basis of projections at that time) to the ratepayers in Utah, the DPU may support or recommend such allocation methodology to the Commission as it determines to be appropriate. ScottishPower assumes the risk of whatever allocation methodologies or decisions the Commission may adopt.

Any proposed methodology to be submitted to the Commission for approval will comply with the following principles:

(a) For services rendered to PacifiCorp or each cost category subject to allocation to PacifiCorp by ScottishPower or any of its affiliates, ScottishPower must be able to demonstrate that such service or cost category is necessary to PacifiCorp for the performance of its regulated operations, is not duplicative of services already being performed within PacifiCorp, and is reasonable and prudent.

(b) Cost allocations to PacifiCorp and its subsidiaries shall be based on generally accepted accounting standards, that is, in general, direct costs shall be charged to specific subsidiaries whenever possible and shared or indirect costs shall be allocated based upon the primary cost-driving factors.

(c) ScottishPower shall have in place time reporting systems adequate to support the allocation of costs of executives and other relevant personnel to PacifiCorp.

(d) An audit trail shall be maintained such that all costs subject to allocation can be specifically identified, particularly with respect to their origin. In addition, the audit trail must be adequately supported. Failure to adequately support any allocated cost may result in denial of its recovery in rates.

(e) Costs which would have been denied recovery in rates had they been incurred by PacifiCorp regulated operations will likewise be denied recovery whether they are allocated directly or indirectly through subsidiaries in the ScottishPower group.

(f) Any corporate cost allocation methodology used for rate setting in Utah, and subsequent changes thereto, must be approved by the Utah Commission.

ScottishPower also assumes the risk of the Commission's approval or adoption of corporate cost allocation methodologies which differ from those adopted by U.K. regulatory agencies.

3. No merger transaction related costs shall be allowed in rates. Enhancements to severance costs relating to the merger will not be allowed in rates. Normal severance costs may be considered for allowance in rates. Future costs arising as a result of the transition plan which result in net cost savings may be considered for allowance in rates. The Applicants agree that they will not in any future rate case in Utah argue for inclusion in rates of any of the items described in Attachment 2.

4. Any diversified holdings and investments (e.g., non-utility business or foreign utilities) of ScottishPower shall not be held by PacifiCorp, the entity for utility operations, or a subsidiary of PacifiCorp. This condition shall not prohibit the continued holding of any existing investments or the holding of diversified businesses and investments by affiliates of PacifiCorp.

5. ScottishPower and PacifiCorp agree to notify the Commission subsequent to ScottishPower's Board approval and as soon as practicable following any public announcement of (1) an acquisition of a regulated or non-regulated business representing 5% or more of the market capitalization of ScottishPower or entering into a new business venture or expansion of an existing one, or (2) a merger, combination, transfer of stock or assets of any material part or all of PacifiCorp or the direct owner of PacifiCorp stock. In addition, PacifiCorp shall comply with the provisions of Utah Code Ann. §§54-4-28 through 54-4-31.

6. ScottishPower shall comply with PacifiCorp's Transfer Pricing Policy, as currently in effect or hereafter amended with the approval of the Commission, in respect of transactions with PacifiCorp.

7. PacifiCorp or ScottishPower shall notify the Commission, and provide sufficient information and documentation to the Commission, prior to the implementation of plans by either PacifiCorp or ScottishPower (1) to form an affiliate entity for the purpose of transacting business with the regulated operations of PacifiCorp, (2) to commence new business transactions between an existing affiliate and with the regulated operations of PacifiCorp, or (3) to dissolve an affiliate which has transacted any substantial business with the regulated operations of PacifiCorp.

8. PacifiCorp shall comply with the provisions of Utah Admin. Code Section R746-401 which sets out the Commission's Rules for reporting the construction, purchase, acquisition, sale, transfer or disposition of utility assets and utility plant.

9. ScottishPower and PacifiCorp shall be required to provide notification of and file for Commission approval of the divestiture, spin-off, or sale of any integral utility function of PacifiCorp. This condition does not limit any jurisdiction the Commission may otherwise have over the divestiture, spin-off or sale of any utility asset.

10. ScottishPower, PacifiCorp and all affiliates shall make their employees, officers, directors, and agents available to testify before the Commission to provide information relevant to matters within the jurisdiction of the Commission.

11. ScottishPower and PacifiCorp shall provide adequate access for the Commission, DPU and CCS or their authorized agents to relevant books, records and officials of all ScottishPower entities. Failure to provide adequate supporting documentation of costs may result in those costs being denied rate recovery. Requests by such entities or their authorized agents shall be deemed presumptively valid, material and relevant, with the burden falling to ScottishPower and PacifiCorp to prove otherwise. ScottishPower and PacifiCorp shall reserve the right to challenge any such request before the Commission and shall have the burden of demonstrating that any such request is not valid, material or relevant. Applicants agree that corporate records shall be available for inspection in Utah or Portland, Oregon. ScottishPower and PacifiCorp shall pay reasonable expenses incurred by the Commission, DPU and CCS in accessing corporate records and personnel located outside of the State of Utah.

12. For a period of five (5) years commencing with the year 2000, PacifiCorp shall include in its year-end semi-annual report a full description, calculation (with supporting work papers) and dollar identification (both total PacifiCorp and Utah's share) of merger savings achieved for the reporting year.

13. No later than six months after the closing date of the merger, ScottishPower and PacifiCorp will file the merger transition plan with the Commission. The plan will include the items described in Mr. MacRitchie's Utah rebuttal testimony.

14. The existing Umbrella Loan Agreement between PacifiCorp and its affiliates (approved by the Commission on November 19, 1997 in Docket No. 88-2035-03), as it may hereafter be amended with approval of the Commission, will continue to govern the terms for

loans between PacifiCorp and its affiliates and ScottishPower shall be deemed to be an affiliate in accordance with the terms of the Umbrella Loan Agreement.

15. For two years following the merger, PacifiCorp shall file a cash flow summary (or other evidence) with its dividend report, showing that service will not be impaired by payment of the dividend, and shall comply with the provisions of Utah Code Ann. §54-4-27. In addition, an officer of PacifiCorp shall be satisfied and shall formally certify to the Commission that PacifiCorp has adequate capital to meet all of its outstanding commitments and carry out its public service obligations in the State of Utah.

16. Any penalty payable by ScottishPower for failure to meet any of the five network performance standards in the State of Utah, as specified at page 9 of the Direct Testimony of Bob Moir, shall be paid as designated by the Commission. Upon the assessment of any such penalties, PacifiCorp and ScottishPower shall consult with the DPU and the CCS to identify an appropriate recipient and shall file its proposal with the Commission. PacifiCorp and ScottishPower agree to be bound by the Commission's decision in this regard.

17. General and Financial reports - To be filed with the Commission:

(a) FERC form 1 - PacifiCorp and Utah state;

(b) Annual and quarterly reports (if any) to shareholders of ScottishPower;

(c) Semi Annual reports showing Utah and PacifiCorp operating results, allocation factors, coal reports, demand side management report, production costs modeling, peak loads by jurisdiction, normalizing adjustments and work papers, all in respect of the regulated operations of PacifiCorp;

(d) Monthly financial and operating reports of the regulated operations of PacifiCorp;

(e) Securities and Exchange Commission Reports 10-Q (quarterly) and 10K (annually) of PacifiCorp;

(f) Annual class cost of service studies for the regulated operations of PacifiCorp;

(g) Monthly Energy Information Administration Form EIA 826 for the regulated operations of PacifiCorp;

(h) Annual affiliated interest report for PacifiCorp and relevant affiliates; and

(i) Five year financial plan and forecast of financial condition (including capital expenditures) for PacifiCorp, provided that such shall not be filed with Commission but shall be available for inspection at the offices of PacifiCorp or its attorneys in Utah on an annual basis.

18. For the purpose of U.S. regulatory reporting, ScottishPower shall follow FASB 52.

19. Unless otherwise approved by the Commission, the Applicants agree to the use of a hypothetical capital structure to determine the correct costs of capital for ratemaking purposes in Utah. The capital structure shall be constructed using a group of A-rated electric utilities comparable to PacifiCorp.

20. Within 90 days after closing of the merger, PacifiCorp and ScottishPower shall provide a detailed report indicating PacifiCorp's proportionate share of the ScottishPower group's total assets, total operating revenues, operating and maintenance expense, and number of employees. Subsequent to this initial report, this information shall be included as part of PacifiCorp's semi-annual filing with the Commission.

21. Except as provided in Condition 22, until approved by the Commission in a separate proceeding, PacifiCorp shall maintain separate long term debt.

22. With the exception of inter-group loans which shall be provided in accordance with Condition 14, PacifiCorp shall apply to the Commission for approval of debt issuances by PacifiCorp or on its behalf, in accordance with Utah Code Ann. §54-4-31 provided that the DPU and CCS agree that PacifiCorp may apply for a waiver of this requirement following 12 months after the closing of the merger.

23. PacifiCorp and ScottishPower agree not to assert in any future Utah proceeding that the provisions of PUHCA or the related Ohio Power v FERC case preempt the Commission's jurisdiction over affiliated interest transactions and will explicitly waive any such defense in those proceedings. In the event that PUHCA is repealed or modified, PacifiCorp and ScottishPower agree not to seek any preemption under any subsequent modification or repeal of PUHCA.

24. PacifiCorp and ScottishPower shall provide the DPU and the CCS with a copy of any SEC filed lobbying reports.

25. If ScottishPower is able to lower the costs of capital, then those savings shall be reflected in rates in accordance with regulatory practices in the State of Utah. If, however, the cost of capital of electric operations of PacifiCorp increases as a direct result of the merger, ScottishPower's shareholders will bear that cost.

26. Rates will be set based upon original and not revalued costs. Any premium paid by ScottishPower for PacifiCorp stock will be disregarded for ratemaking purposes.

27. (a) PacifiCorp will comply with ScottishPower's proposed performance standards and service guarantees and will not allow its underlying outages to increase above current levels for the periods set out in ScottishPower witness Moir's direct testimony.

(b) PacifiCorp will include the proposed performance standards and service guarantees in its tariff.

(c) During 2004, PacifiCorp will review and if necessary revise its performance standards, service guarantees and related requirements. In any event, PacifiCorp will submit for Commission approval its proposals for the continuation of performance standards, service guarantees and related requirements.

28. PacifiCorp will fund network expenditures required to implement the service standards commitments in ScottishPower's direct testimony from efficiency savings and redirected internal funding; and will report funding sources and expenditures against the \$55 million estimate.

PacifiCorp will report on expenditures and sources of funds in its year-end semi-annual report.

29. PacifiCorp will operate its current outage reporting system in parallel with Prosper (an automated system expected to verify customer reported outages) until the earlier of Commission approval to terminate the current system or until the establishment of baselines in accordance with Condition 30.

30. (a) PacifiCorp will perform audits at six-month intervals to ascertain the differences between customer reported faults (from the telephone systems) and those recorded in the fault reporting systems to ascertain the differences due to reporting deficiencies. These three audits will terminate 18 months after approval of the transaction. Thereafter, PacifiCorp will perform audits upon request of the DPU or the Commission.

(b) Based on that data, the DPU will, within 18 months after approval of the transaction, file a report with the Commission recommending outage baselines. Disputes, if any, regarding the outage baselines will be resolved by the Commission.

31. Subject to the following reporting and dispute resolution provisions, PacifiCorp may use the IEEE criteria to determine what constitutes an "extreme event" as proposed in the Direct Testimony of ScottishPower witness Moir. The claim by PacifiCorp may involve judgments regarding design limits of or extensive damage to the power system. If so, PacifiCorp will file with the DPU a report specifying the basis for the claim and any disputes regarding the merits of the claim will be resolved by the Commission.

32. PacifiCorp will audit, in response to DPU requests, to determine actual outage levels B after correcting for under or inaccurate recording. The results of that determination will be submitted to the DPU and will be subject to audit by the DPU or its designated expert.

33. PacifiCorp will provide quarterly reports of outages on a district basis. The report will include a comparison of the average district outage levels (for outage durations, outage

frequencies, and short duration outages) with the outage level for the highest and lowest circuits. PacifiCorp recognizes that the DPU has the statutory authority to request additional information. PacifiCorp agrees to provide explanations or corrective action plans regarding unfavorable outage variances in response to DPU requests.

After Prosper is in place, PacifiCorp will include in the quarterly reports the numbers of customers in each district for whom outages have exceeded PacifiCorp's average outage frequency rate.

34. PacifiCorp shall continue with internal meter set and meter test field response standards in Northern Utah. It shall establish reasonable internal targets for field responses where none currently exist and for which targets have not yet been set and report performance against all district targets on a quarterly basis.

35. PacifiCorp shall report call-handling results during wide-scale outages against average answer speeds, hold times, and busy indications.

36. PacifiCorp shall report, each quarter, district data showing credits to customers for failures to meet customer guarantees. PacifiCorp will do so for the period of the commitment to these guarantees, as set out in the direct testimony of Bob Moir.

37. PacifiCorp shall implement and include in its tariff a dispute resolution process for dealing with customer claims resulting from customer guarantee failures on a fair and consistent basis.

Customers will continue to have the right to file informal complaints with the DPU or formal complaints with the Commission.

38. Following the introduction of Prosper, PacifiCorp will provide a quarterly report of the number of customer reported transmission outages where customers report loss of supply. For each customer reported transmission outage, PacifiCorp agrees to report as precisely as is possible the locality (that is, the PacifiCorp district, wholesale electric cooperative, municipality or other wholesale customer location) from which the customer report came.

39. PacifiCorp recognizes that it has a statutory obligation to provide adequate, efficient, just and reasonable service to each retail customer. PacifiCorp also recognizes that the Commission has the authority to supervise and regulate PacifiCorp's service and to enforce its orders, including through the provisions of Section 54-7-25.

40. PacifiCorp will continue to produce Integrated Resource Plans every two years, according to the then current schedule and the then current Commission rules.

41. PacifiCorp shall make a showing in a rate proceeding that any additions of renewable resources to the rate base or the revenue requirement first appearing in that rate proceeding are prudent investments.

42. For the two years following the final approval of the merger, ScottishPower/PacifiCorp shall comply with the provisions of the merger agreement in respect of employee benefit plans.

43. ScottishPower and PacifiCorp agree to provide guaranteed merger related cost-of-service reductions for four years through an annual merger credit. The amount of the credit shall be \$12 million per year for years 2000, 2001, 2002 and 2003. The total credit in years 2000-2003 will be \$48 million. The merger credit shall be allocated among PacifiCorp's retail tariff customers on the basis of a percentage of the customer bill, exclusive of taxes. At the end of each year, the aggregate amount of credit allocated in that year shall be calculated. These calculations shall be audited by the DPU, who shall report their audit results to the Commission. In the event the merger credit does not equal \$12 million in any of the first three years, the excess or shortfall shall be applied to the \$12 million due in the following year.

For each of the years 2002 and 2003, ScottishPower and PacifiCorp may reduce or offset the \$12 million merger credit to the extent that cost reductions related to the merger are reflected in rates.

The dates set forth in this Condition assume that the merger transaction closes in 1999. If closing is delayed, ScottishPower and PacifiCorp may adjust the dates so that the merger credit begins as soon as practicable but not later than 30 days after the closing date.

In the event that restructuring of the electricity business occurs in Utah prior to the end of the four years for payment of the merger credit, the Commission shall determine at that time how the outstanding merger credit shall be paid.

Any other terms required to implement this merger credit shall be included in the merger credit tariff for approval by the Commission.

44. Rates in Utah shall not increase as a result of the merger.

45. ScottishPower and PacifiCorp agree that they shall assume all risks that may result from less than full system cost recovery if interjurisdictional allocation methods differ among PacifiCorp's various state jurisdictions. The DPU agrees to use its reasonable best efforts to reach agreement with the other state regulators as to the interjurisdiction cost allocation methodology to be recommended to the respective state commissions. In the event the state regulators are unable to reach agreement or the DPU concludes that the methodology supported by any of the other U.S. regulatory states would cause actual or perceived financial harm or inequity (on the basis of projections at that time) to the ratepayers in Utah, the DPU may support or recommend such allocation methodology to the Commission as it determines to be appropriate.

53. The Parties have negotiated this Stipulation as an integrated document. If the Commission rejects all or any material part of this Stipulation or imposes additional material conditions in approving the Application, any Party disadvantaged by such action shall have the right, upon written notice to the Commission and all parties to this proceeding within 15 business days of the Commission's Order, to withdraw from this Stipulation. If any Party withdraws from this Stipulation on this basis, no Party shall be bound by the terms of this Stipulation and each Party shall be entitled to seek reconsideration of the Commission Order, file any testimony it chooses, cross-examine witnesses and in general put on such case as it deems appropriate.

54. PacifiCorp, ScottishPower, the DPU and CCS agree that this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable. The DPU and the CCS recommend to the Commission that the Application of ScottishPower and PacifiCorp be approved with respect to the matters set out in this Stipulation.

55. Except as provided in this Stipulation, execution of this Stipulation shall not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation, and no Party shall be deemed to have agreed that any principle, method or theory of regulation employed in arriving at this Stipulation is appropriate for resolving any issue in any other proceeding. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.

56. The obligations of ScottishPower and PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July 28, 1999

UTAH DIVISION OF PUBLIC UTILITIES

By: /s/ Michael Ginsberg
Its: Attorney

PACIFICORP

By: /s/ Edward A. Hunter
Its: Attorney

COMMITTEE OF CONSUMER SERVICES

By: /s/ Douglas C. Tingey
Its: Attorney

SCOTTISH POWER PLC

By: /s/ Brian W. Burnett
Its: Attorney

July 28, 1999 Stipulation - Attachment No. 1
Scottish Power, Richardson (Supplemental Testimony)

BENEFITS TO CUSTOMERS FROM THE TRANSACTION

I. CUSTOMER SERVICE

A. Network Performance

1. System Availability. On the five-year anniversary of the completion of the transaction,¹ the underlying System Average Interruption Duration Index (SAIDI) for PacifiCorp customers in the State of Utah will have been reduced by 10%.

2. System Reliability. On the five-year anniversary of the completion of the transaction, the underlying System Average Interruption Frequency Index (SAIFI) for PacifiCorp customers in the State of Utah will have been reduced by 10%.

3. Momentary Interruptions. On the five-year anniversary of the completion of the transaction, the Momentary Average Interruption Frequency Index (MAIFI) for PacifiCorp customers in the State of Utah will have been reduced by 5%.

4. Worst Performing Circuits. The 5 worst performing circuits in the State of Utah will be selected annually on the basis of the Circuit Performance Indicator (CPI),² as calculated over a three-year average excluding extreme events. Corrective measures will be taken within 2 years of implementation of the performance targets to reduce the CPI by 20%.

5. Supply Restoration. For power outages because of a fault or damage on PacifiCorp's system, PacifiCorp will restore supplies on average to 80% of customers within 3 hours.

6. Penalties. For each of the standards not achieved in the State of Utah at the end of the five-year period, ScottishPower will pay a financial penalty equal to \$1.00 for every customer served by PacifiCorp in Utah.

¹ Reference to "completion of the transaction" throughout this document means the closing of the transaction pursuant to the Amended Merger Agreement.

² The CPI is a weighted, composite index based on the following four factors: (1) MAIFI, (2) SAIDI, (3) SAIFI, and (4) number of lockouts.

7. Implementation. Specific terms and conditions relating to the implementation of the Network Performance Standards are set forth in Appendix A.³

B. Customer Service Performance

1. Telephone Service Levels. Within 120 days after completion of the transaction, 80% of calls to PacifiCorp's Business Centers will be answered within 30 seconds. This target will be increased to 80% in 20 seconds by January 1, 2001 and 80% in 10 seconds by January 1, 2002.

2. Complaint Resolution.

a. Non-Disconnect Complaints. Within 90 days after completion of the transaction, PacifiCorp will investigate and provide a response to all complaints referred by the Commission within 3 business days.⁴

b. Disconnect Complaints. Within 90 days after completion of the transaction, complaints related to service disconnection will be responded to within 4 business hours.⁵

c. Commission Complaints. Within 90 days after completion of the transaction, ninety percent of complaints referred to PacifiCorp by the Commission will be resolved within 30 days. This percentage will be increased to 95 percent by 2001.

3. Implementation. Specific terms and conditions relating to the implementation of the Customer Service Performance Standards are set forth in Appendix A.

C. Customer Service Guarantees

1. Restoring the Customer's Supply.

a. Guarantee. If the customer loses electricity supply because of a fault in PacifiCorp's system, PacifiCorp will restore the customer's supply as soon as possible.

³ Initial benchmarks for SAIDI, SAIFI and MAIFI will be established based upon PacifiCorp's historical performance, adjusted as necessary where the change in measurement and monitoring accuracy results in a change in the reported (but not actual) reliability indices, as discussed in Mr. Moir's testimony at page 7.

⁴ Business days are defined as Monday through Friday excluding company holidays.

⁵ Business hours are defined as 8:00 a.m. to 5:00 p.m.

6. Problems with the Customer's Meter.

a. Guarantee. PacifiCorp will investigate and report back to the customer within 15 business days if the customer suspects a problem with its meter.

b. Penalty. If PacifiCorp fails to meet its guarantee, PacifiCorp will automatically pay the customer \$50 for each failure.

7. Planned Interruptions.

a. Guarantee. PacifiCorp will give the customer at least 2 days notice if it is necessary to turn the customer's power supply off for planned maintenance work or testing.

b. Penalty. If PacifiCorp fails to meet its guarantee, customers can claim \$50 for residential customers and \$100 for commercial and industrial customers.

8. Power Quality Complaints.

a. Guarantee. Upon notification from a customer about a problem with the quality of electric supply, PacifiCorp will either initiate an investigation within 7 days or explain the problem in writing within 5 business days.

b. Penalty. If PacifiCorp fails to meet its guarantee, it will automatically pay the customer \$50.

9. Implementation. Specific terms and conditions relating to the implementation of the Customer Service Guarantees are set forth in Appendix B. Data calculations to measure performance will be audited by the company and an outside auditor.

10. Reporting.

a. To Customers. PacifiCorp will issue a report to the customer by June 30 of each year regarding its record in improving Performance Standards and how well it has performed against its Customer Guarantees. Each report will contain an overview of standards, targets and guarantees and describe the performance results for that year. The report will also discuss any new targets PacifiCorp will be applying in the coming year.

b. To Commission. PacifiCorp will provide an annual report to the Commission by May 31 of each year that will discuss implementation of ScottishPower's programs and procedures for providing improved performance. The report will provide a general summary of how PacifiCorp performed according to the standards, targets and guarantees. The report will: (i) provide performance results for each standard, target or guarantee; (ii) identify excluded exceptions; (iii) explain any historical and anticipated trends and events that affected or will affect the measure in the future; (iv) describe any technological advancements in data collection that will

significantly change any performance indicator; (v) discuss any "phase in" of new standards, targets or guarantees; and (vi) include the name and telephone numbers of contacts at PacifiCorp to whom inquiries should be addressed. If the company is not meeting a standard, target or guarantee, the report will: (i) provide an analysis of relevant patterns and trends; (ii) describe the cause or causes of the unacceptable performance; (iii) describe the corrective measures undertaken by the company; (iv) set a target date for completion of the corrective measures; and (v) provide details of any penalty payments due.

II. REGULATORY OVERSIGHT

A. Access to Books and Records

1. PacifiCorp will maintain its own accounting system, separate from ScottishPower's accounting system. All PacifiCorp financial books and records will be kept in Portland, Oregon, and will continue to be available to the Commission upon request at PacifiCorp's offices in Portland, Salt Lake City, Utah, and elsewhere in accordance with current practice.

B. Cost Allocation, Affiliated Interest Transactions

1. By the end of the third year following the completion of the transaction, ScottishPower will have achieved a net reduction of \$10 million annually in PacifiCorp's corporate costs (\$15 million of annual cost savings in corporate costs which, when offset by \$5 million of cost increases, will produce a net reduction of \$10 million annually in corporate costs). ScottishPower will commit to reflecting this reduction in PacifiCorp's results of operations filed with the Commission.

2. ScottishPower will provide an analysis of its proposed allocation of corporate costs within ninety days after completion of the transaction.

3. To determine the reasonableness of allocation factors used by ScottishPower to assign costs to PacifiCorp and amounts subject to allocation or direct charges, the Commission or its agents may audit the records of ScottishPower which are the bases for charges to PacifiCorp. ScottishPower will cooperate fully with such Commission audits.

4. ScottishPower and PacifiCorp will provide the Commission access to all books of account, as well as all documents, data and records of their affiliated interest, which pertain to any transactions between PacifiCorp and its affiliated interests.

5. ScottishPower and PacifiCorp agree to comply with all existing Commission statutes and regulations regarding affiliated interest transactions, including timely filing of applications and reports.

6. ScottishPower will not subsidize its activities by allocating to or directly charging PacifiCorp expenses not authorized by the Commission to be so allocated or directly charged.

7. Neither ScottishPower nor PacifiCorp will assert in any future Commission proceeding that the provisions of the Public Utility Holding Company Act of 1935 preempt the Commission's jurisdiction over affiliated interest transactions.

C. Transaction Costs

1. ScottishPower and PacifiCorp will exclude all costs of the transaction from PacifiCorp's utility accounts.

D. Financial Issues

1. ScottishPower intends to achieve an actual capital structure equivalent to that of comparable, A-rated electric utilities in the U.S., with a common equity ratio for PacifiCorp of not less than 47%.

2. PacifiCorp will maintain separate debt and, if outstanding, preferred stock ratings.

3. ScottishPower and PacifiCorp will provide the Commission with unrestricted access to all written information provided to common stock, bond, or bond rating analysts, which directly or indirectly pertains to PacifiCorp.

III. COMMITMENT TO THE ENVIRONMENT

A. Renewable Resources

1. PacifiCorp will develop an additional 50 MW of renewable resources (wind, solar and/or geothermal) at an anticipated cost of approximately \$60 million within five years after completion of the transaction.

2. Within 60 days after completion of the transaction, PacifiCorp will file applications in each state for a "green resource" tariff.

3. PacifiCorp will contribute \$100,000 to the Bonneville Environmental Foundation for use in the development of new renewable resources and fish mitigation projects.

B. Environmental Management

1. PacifiCorp will have environmental management systems in place that are self-certified to ISO 14001 standards at all PacifiCorp operated thermal generation by the end of 2000.

2. ScottishPower will include PacifiCorp operations in ScottishPower's comprehensive annual environmental report with appropriate specific goals.

3. ScottishPower will include a PacifiCorp officer on the Environmental Policy Advisory Committee.

4. ScottishPower will develop a process to gather outside input on environmental matters, such as the establishment of an Environmental Forum.

IV. COMMITMENT TO COMMUNITIES

A. Financial Contribution

1. ScottishPower will contribute \$5 million to the PacifiCorp Foundation upon completion of the transaction.

2. ScottishPower will maintain the existing level of PacifiCorp's other community-related contributions, both in terms of monetary and in-kind contributions.

B. Programs

1. ScottishPower will develop, in consultation with the appropriate Utah state educational authorities and the local business community, a "School to Work" initiative. Skill development opportunities will be made available through the Open Learning Centers, work experience mentoring, and work shadowing.

2. ScottishPower will maintain the existing Regional Advisory Boards.

C. Low-Income Customers

1. ScottishPower will commit \$1.5 million per year (in addition to PacifiCorp's existing commitment of \$1.5 million annually) to programs that encourage the economic well-being of communities, including the following:

a. ScottishPower will double the number of customers assisted by the heat assistance funding program for those customers who qualify under the Federal Low Income Energy Assistance Program and will reintroduce the matching concept with PacifiCorp matching customer donations to heat assistance programs annually.

b. ScottishPower will establish a debt counseling service for those customers who have difficulty in paying their monthly electric bills.

c. ScottishPower will expand the commitment to educate customers regarding energy efficiency in order to help customers with payment difficulties, and to promote electricity safety for all customers.

V. COMMITMENT TO EMPLOYEES

A. Existing Labor Agreements

1. ScottishPower will honor existing labor contracts with all levels of staff.

B. New Programs

1. ScottishPower will introduce the following programs in the PacifiCorp service territory, upon completion of the transaction, at a start-up cost of approximately \$3 million and estimated annual expenditures of approximately \$1 million:

- a. ScottishPower will develop one "best-in-class" training center in each of Oregon and Utah. These centers will provide employees with opportunities to improve their work-related skills.

- b. ScottishPower will phase in the introduction of the ScottishPower Open Learning centers. At these Open Learning centers, employees will be able to supplement their work-related skills with other skills designed to enhance their overall knowledge.

- c. ScottishPower will establish partnerships with local colleges and universities to develop management training programs.

C. Occupational Health

1. ScottishPower will examine the appropriateness of introducing for PacifiCorp employees its successful programs already adopted in the U.K. to encourage a healthy lifestyle for employees.

July 28, 1999 Stipulation - Attachment No. 1
Scottish Power, Richardson (Supplemental Testimony)

EXHIBIT A

Performance Standards

Standard	Clarification
System Availability (SAIDI)	SAIDI will exclude extreme events (storms). This allows measurement of the underlying performance of the asset base.
System Reliability (SAIFI)	SAIFI will exclude extreme events
Momentary Interruptions (MAIFI)	MAIFI will exclude extreme events
Worst Performing Circuits	CPI will exclude extreme events. It will also exclude instances where the company is delayed due to the company's inability to obtain the appropriate planning consents.
Supply Restoration	Restoration time will exclude extreme events. It will also exclude situations where a customer agrees to remain without power or where PacifiCorp is unable to restore supply due to problems with the customer's facility, or where PacifiCorp does not have access.
Telephone Service Levels	Telephone service levels will be defined as percent of calls answer within targeted time frame. Telephone service levels will be measured from the time the customer selects a menu option and is placed in queue until a CSE or interactive voice response (IVR) unit answers the call.
Commission Complaint Resolution	The company may request an extension of time to respond to a complaint, which may be granted by Commission Staff. Business days are defined as Monday through Friday excluding company holidays. Business hours are defined as 8:00 a.m. to 5:00 p.m.

July 28, 1999 Stipulation - Attachment No. 2
Scottish Power/PacifiCorp (Proposed Treatment of Merger Related Costs)

SCOTTISH POWER/PACIFICORP - PROPOSED TREATMENT OF MERGER RELATED COSTS					
Cost Item	\$	Above the Line	Below the Line	Ref.	Comment
Goodwill	1,800m (£1124.7m)		X	SP Listing Particulars page 107	Goodwill represents the difference between the purchase price and fair value of the net assets of PacifiCorp. Goodwill is sometimes referred to as the acquisition adjustment for accounting purposes. The calculation of goodwill varies with fluctuations in ScottishPower share price.
Acquisition Costs 1)Share Issues Costs 2)Preferred Stock Redemption 3)Investment, legal, accounting, etc. Total Acquisition Cost	104m (£65m) 26m (£15m) 109m 239m		X X X X	SP Listing Particulars pages 107 & 145	This is an estimate only. However, all such costs incurred directly in completing the acquisition will be charged below the line.
Preferred Stockholder Merger Approval Payments	2.5m (maximum)		X	PC Proxy Statement page 138	Special payments made to preferred Stockholders of 1% to obtain merger approval.
Payments to Directors	0.4m		X	SP Listing Particulars page 166	\$50,000 payment made to non-executive directors.
Change in Control 1)Enhanced Executive Severance 2)PacifiCorp Stock Plans 3)Supplemental Executive Retirement Plan (SERP)	8.3m (maximum) minimal cost 2.6m		X X X	SP Listing Particulars page 163-165	Only enhanced payments resulting from the application of change in control conditions are included. To the extent that a net benefit in costs going forward can be demonstrated then such costs will be treated above the line. Final change in control costs can only be determined 24 months after closure. Numbers quoted are upper limit amounts if all eligible employees receive maximum amounts due. They include payments due to two executives who have already retired. There is no material cost associated with PacifiCorp employee stock option provisions.
Retention Incentive Payments	7m (maximum)		X	SP Listing Particulars page 166, WIEC 3.5	Payments to retain key employees during period prior to merger completion.
Bonus Pool - Merger related portion	Not known		X	SP Listing Particulars page 166	To the extent that any such payments are made in connection with "extraordinary efforts" to accomplish the successful completion of the merger only. No quantification of this portion can be determined at this time.

APPENDIX 2

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Docket No. 98-2035-04
PacifiCorp and ScottishPower plc for an)	
Order Approving the Issuance of)	Stipulation and Settlement of Issues
PacifiCorp Common Stock)	Related to Public Purpose Programs

This Stipulation (“Stipulation”) is entered into among PacifiCorp, ScottishPower plc, the Office of Energy and Resource Planning and the Land and Water Fund of the Rockies. The Office of Energy and Resource Planning, and the Land and Water Fund of the Rockies are together referred to as the “Intervenors.” PacifiCorp, ScottishPower and the Intervenors are together referred to as the “Parties.”

The purpose of this Stipulation is to resolve all issues in this Docket relating to the impact of the merger of ScottishPower and PacifiCorp on the environment and public purpose programs. ScottishPower/PacifiCorp have publicly committed to funding certain kinds of programs on a system-wide basis, as set in direct testimonies of Mr. Alan Richardson and Mr. Jack Kelly filed on February 26, 1999. In this Stipulation, ScottishPower/PacifiCorp agree to actions specifically applicable to the Utah jurisdiction in respect of those testimony commitments, as a negotiated resolution of the environmental and public purpose issues between the Parties.

1. **Terms of Stipulation**

The terms and conditions of this Stipulation are set forth below. The Parties agree that with respect to the environment and public purpose programs the commitments in this Stipulation and the proposed merger are in the public interest. The Parties recommend that the Commission approve the Application in this Docket in regard to the environment and other public purpose

programs, subject to the terms of this Stipulation. The Parties will also support this Stipulation throughout the proceedings relative to this Docket.

2. **Background**

In this Docket, the Intervenors filed direct testimony commenting on the positive and credible commitments which ScottishPower/PacifiCorp made in their direct testimony with regard to the environment, renewable energy and other public purpose issues. However, Intervenors also commented on the lack of specific testimony relating to energy efficiency programs to which ScottishPower/PacifiCorp would commit upon approval of the merger or how ScottishPower/PacifiCorp's system wide investments in public purpose programs would provide net benefits to Utahns. Since that time, representatives of ScottishPower/PacifiCorp have met with the Intervenors to discuss those concerns. ScottishPower/PacifiCorp has provided clarification on the intent behind its environment and public purpose commitments and a more detailed explanation of ScottishPower/PacifiCorp's desire to work in partnership with appropriate parties to ensure that environmental, renewable energy, energy efficiency and other public purpose issues and opportunities specific to Utah can be addressed.

While ScottishPower/PacifiCorp's objectives are to improve environmental performance and deliver the merger commitments of ScottishPower/PacifiCorp, they intend to do so in such a way that enables them to seek to maximize the impact of their investment and ensure that all investments are prudent, and therefore recoverable through the rate setting mechanism.

3. **ScottishPower Commitments**

With regard to environmental and public purpose issues, ScottishPower agrees to meet the concerns expressed by the Intervenors in the following ways:

a. **Integrated Resource Planning**

The Parties agree that the Utah Public Service Commission ("Commission") approved Integrated Resource Planning process provides a valuable means for ensuring that PacifiCorp's resource plan provides the maximum benefit to PacifiCorp and its customers when evaluating a range of important criteria, such as cost, risk diversification and environmental impacts. As such, ScottishPower/PacifiCorp commits to produce Integrated Resource Plans according to the current schedule and current PSC rules. The Parties acknowledge that, to account for changes in the electric industry over time, the IRP rules may need to be updated and revised. ScottishPower/PacifiCorp commits to work with the Intervenors and other relevant bodies to address this issue at the relevant time.

b. **Renewable Resources**

ScottishPower/PacifiCorp confirms its commitment to develop an additional 50 MW of renewable resources across its entire system within five years of the approval of the merger, as set out in the direct testimony of Mr. Alan Richardson. ScottishPower/PacifiCorp is interested in developing cost effective renewable energy programs and projects in Utah. ScottishPower/PacifiCorp will use the Integrated Resource Planning process and other mechanisms to evaluate renewable resources and work with the Intervenors and other interested parties, including the Energy Efficiency and Renewable Energy Task Force, in designing, developing, implementing and evaluating specific programs to most effectively deploy renewable energy technology in Utah. Pilot programs may be used to ascertain the effectiveness of program design and implementation. Nothing in this Stipulation, however, would provide ScottishPower/PacifiCorp with a finding of prudence in regard to these renewable resource

investments prior to a future rate case. Rather, when PacifiCorp or ScottishPower seek to include these renewable resource costs in rates, they must demonstrate at that time that these costs have been prudently incurred.

In its testimony, ScottishPower/PacifiCorp also committed to filing a green resource tariff within 60 days of the approval of the merger. To ensure that the green pricing tariff filed in Utah addresses issues and opportunities specific to Utah, ScottishPower/PacifiCorp commits to incorporating, where appropriate, the recommendations of the Energy Efficiency and Renewable Energy Task Force in the design of the tariff. The Parties recognize that any green pricing tariff implemented in Utah is subject to Commission approval.

c. **Conservation and Energy Efficiency Programs**

At the meeting of the parties, ScottishPower/PacifiCorp explained that the lack of specific testimony relating to Utah-specific energy efficiency programs was due to uncertainty regarding the outcome of the investigation currently being undertaken by the Commission's Energy Efficiency and Renewable Energy Task Force. ScottishPower/PacifiCorp commits to continue to support funding for cost effective and prudent energy efficiency in Utah and will continue to use the Integrated Resource Planning process and other mechanisms to establish Utah energy efficiency targets. In determining the appropriate cost effective programs and investments, aspects such as market transformation, removing barriers to self-sustaining energy efficiency markets, technical potential, achievable potential, program design, leverage of additional funds, administration costs, timing of implementation, portfolio and risk diversification value, and environmental benefits will be considered. The prudence of investment will be determined according to Utah Commission guidelines.

The Parties believe that conservation and energy efficiency programs are more than merely an alternative to increasing generation plant. If properly constituted these programs can deliver real benefits to customers by:

- reducing the energy used;
- increasing comfort;
- lowering the total cost of energy;
- reducing risk by diversifying the electric resource mix; and
- reducing environmental impacts.

ScottishPower/PacifiCorp commits to work with the Energy Efficiency and Renewable energy Task Force, and assist in establishing a technical database and in designing, developing, implementing and evaluating specific Utah programs that can most effectively deliver the benefits of energy efficiency programs to Utah customers. Pilots may be used to ascertain the effectiveness of program design and implementation.

The overall objective will be to maximize the benefits from cost effective and prudent investment in conservation and energy efficiency programs in Utah.

The tariffs associated with these conservation and energy efficiency programs will be subject to Commission approval prior to implementation.

d. **Environmental Forum**

As described in its testimony and discovery responses, ScottishPower has committed to establishing an Environmental Forum, similar to the Forum it uses in the UK. In the UK, the Forum is a consultative body incorporating representatives of academic, industry, and advocacy organizations in the field of environmental issues, together with senior ScottishPower

management. It provides ScottishPower with external expertise and perspective on strategic issues related to the environment.

e. **Other Issues**

The Parties recognize that there are environmental, energy efficiency, and renewable energy issues not covered in ScottishPower/PacifiCorp's direct testimony (e.g. impacts of distributed generation, issues related to the state sponsored energy programs for National Parks and public lands management agencies, public buildings, and regional haze).

With respect to distributed generation and state sponsored energy programs, ScottishPower/PacifiCorp commit to work with the Energy Efficiency and Renewable Energy Task Force and/or other appropriate working groups to develop a framework to address these issues as they relate to Utah. This approach will ensure that a balance is struck between addressing the issues on a regional basis and being able to tackle issues which specifically relate to PacifiCorp's Utah customers.

With respect to regional haze, the Parties recognize that ScottishPower/PacifiCorp intends to support PacifiCorp's continued involvement in the Western Regional Air Partnership's work to develop a regional haze strategy for the Western states, including Utah. The Parties point out that ScottishPower's merger related commitments to renewable energy and energy efficiency could be a component of Utah's state implementation planning requirements for regional haze as outlined in Section 51.309(d)(8) of EPA's final regional haze rule.

4. **General Terms and Conditions**

a. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, evidence or conduct or statements made in the negotiation and discussion

phases of this Stipulation shall not be admissible as evidence in any proceeding before the Commission or a court. All negotiations relating to this Stipulation are privileged and confidential.

b. The Parties have negotiated this Stipulation as an integrated document. Accordingly, the Parties recommend that the Commission adopt the Stipulation in its entirety.

c. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and shall support adoption of the Stipulation in the proceedings, relative to this Docket. Each Party shall make available a witness in support of the Stipulation at which time other parties to the proceeding would have an opportunity to cross-examine such witness. In the event the Commission rejects all or any material portion of this Stipulation or imposes additional material conditions in approving the Application, each Party reserves the right, upon written notice to the Commission and all parties to the proceeding within 15 days of the date of the Commission's Order, to withdraw from this Stipulation. In such case, no Party to this Stipulation shall be bound or prejudiced by the terms of this Stipulation and each Party shall be entitled to seek reconsideration of the Commission Order, file any testimony it chooses, to cross-examine witnesses and in general to put on such case as it deems appropriate.

d. The Parties agree that this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable.

e. No Party shall be bound by any position asserted in the negotiations, except to the extent expressly stated in this Stipulation. Execution of this Stipulation shall not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation, and no party shall be deemed to have agreed that any method,

theory or principle of regulation employed in arriving at this Stipulation is appropriate for resolving any issues in any other proceeding. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.

f. The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July 26, 1999

PacifiCorp

By: /s/ Edward A. Hunter
Its: Attorney

ScottishPower plc

By: /s/ Michael Marron
Its: Customer Relations Director

**The Office of Energy and Resource
Planning, Utah Department of Natural
Resources**

By: /s/ Jeffrey S. Burks
Its: Director

**The Land and Water Fund of the
Rockies**

By: /s/ Eric Blank
Its: Energy Project Director

APPENDIX 3

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Docket No. 98-2035-04
PacifiCorp and Scottish Power plc for an)	
Order Approving the Issuance of)	Stipulation and Settlement of Issues Related
PacifiCorp Common Stock)	to Low-Income Customers

This Stipulation ("Stipulation") is entered into among PacifiCorp, Scottish Power plc, Crossroads Urban Center ("Crossroads"), and Salt Lake Community Action Program ("CAP") (together, the "Parties").

The purpose of this Stipulation is to resolve all issues in this Docket relating to the impact of the merger of PacifiCorp and ScottishPower plc on low-income customers. PacifiCorp and ScottishPower have publicly committed to funding certain kinds of programs on a system-wide basis, as set out in direct testimony of Mr. Jack Kelly filed on February 26, 1999. In this Stipulation, ScottishPower and PacifiCorp agree to actions specifically applicable to the Utah jurisdiction in respect of those testimony commitments, as a negotiated resolution of issues between the parties.

1. Terms of Stipulation

The terms and conditions of this Stipulation are set forth below. Upon acceptance of these terms and conditions by PacifiCorp/ScottishPower, CAP and Crossroads will, as soon as possible within the procedural limits of this Docket, recommend that the Commission approve the Application in this docket, in so far as low income issues are concerned and shall not adversely comment on any other issue in this Docket. CAP and Crossroads will include this

recommendation in its prefiled direct testimony and will support its recommendation in this Docket.

2. Background

In Utah PSC Docket No. 97-035-01, CAP and Crossroads proposed implementation of a lifeline rate for certain low-income customers and asked that the Utah Public Service Commission institute a Docket to address other issues related to low-income customers of PacifiCorp. In its Order, the Commission established a Low-Income Task Force to address a number of issues related to problems of low-income customers. The Commission also concluded that it had the authority to adopt a lifeline rate and identified four criteria that a lifeline rate would have to meet to satisfy the Commission that it was in the public interest. In addressing each of the four criteria, the Commission observed that there was no evidence that the proposed lifeline rate was not in the public interest and concluded that "a lifeline rate may be in the public interest." However, it had several unanswered questions that were referred to the Low-Income Task Force to provide recommendations to the Commission.

3. Lifeline Rate

As a participant on the Utah Low-Income Task Force, PacifiCorp will support the implementation of a lifeline rate in the Utah jurisdiction, either the rate proposed by Crossroads and CAP in Utah PSC Docket No. 97-035-01, or some appropriate rate agreed by the parties, to be funded by ratepayers. PacifiCorp will also support extension of the lifeline rate in Utah to provide an additional discount to disabled and other vulnerable customers, both in the Utah Low-

Income Task Force and any future Utah PSC docket in which such an extension is introduced. ScottishPower shall support PacifiCorp in these regards.

4. **Low-Income Task Force**

PacifiCorp will be an active participant in the Utah Low-Income Task Force to seek means of initiating appropriate programs that will make electric utility service more affordable for low-income customers in Utah. ScottishPower shall support PacifiCorp in this regard.

5. **Low Income Programs**

PacifiCorp/ScottishPower are committed to working with the appropriate partners to identify innovative, cost-effective programs that provide sustained benefit to low income customers through decreasing energy usage and improving their ability to pay current and past electric bills.

To this end, PacifiCorp, supported by ScottishPower, will work with the Task Force to identify programs that incorporate a range of measures including:

Energy Efficiency Advice

Budget management & Debt Counseling plus

Implementation of energy efficiency measures

The objective of PacifiCorp/ScottishPower, is to deliver real benefit (i.e. reducing the energy used; increasing comfort; lowering the total cost of energy and/or reducing debt burden) to Low Income and other vulnerable customers by accomplishing the following to the extent practicable:

Helping to stimulate the provision of cost-effective programs.

Identifying the objectives of each program and how achievement of objectives can be measured

Identifying the customer groups who will benefit from each individual program.

Identifying possible sources of funding which can provide additional leverage.

Identifying the most effective method of funding, managing and delivering each program.

Establishing pilot projects to prove the effectiveness of appropriate programs.

Identifying the data required to confirm the effectiveness of pilot programs and whether they should be rolled out.

Provided the appropriate programs can be identified, developed and financially structured to ensure they are cost-effective and meet all regulatory and business requirements,

PacifiCorp/ScottishPower will make additional funds available. This commitment of additional funding will be shareholder's funds to the value of \$300,000 per annum in Utah for three years after approval of the merger, over and above what was spent on similar programs in the State of Utah in 1998. After this 3 year period this funding shall be subject to review by the parties. All parties will use their reasonable endeavors to work together and identify appropriate programs for this funding as set out in this paragraph.

6. General Terms and Conditions

a. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, evidence or conduct or statements made in the negotiation and discussion phases of this Stipulation shall not be admissible as evidence in any proceeding before the Commission or a court. All negotiations relating to this Stipulation are privileged and confidential.

b. The Parties have negotiated this Stipulation as an integrated document.

Accordingly, the parties recommend that the Commission adopt the Stipulation in its entirety.

c. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and shall support adoption of the Stipulation in prefiled testimony submitted in this proceeding. If a hearing is scheduled for presentation of the Stipulation, each Party shall make available a witness in support of the Stipulation. At which time other parties to the proceeding would have an opportunity to cross-examine such witness. In the event the Commission rejects all or any material portion of this Stipulation or imposes additional material conditions in approving the Application, each Party reserves the right, upon written notice to the Commission and all parties to the proceeding within 15 days of the date of the Commission's Order, to withdraw from this Stipulation. In such case, no Party to this Stipulation shall be bound or prejudiced by the terms of this Stipulation and each Party shall be entitled to seek reconsideration of the Commission Order, file any testimony it chooses, to cross-examine witnesses and in general to put on such case as it deems appropriate.

d. The Parties agree that this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable.

e. No Party shall be bound by any position asserted in the negotiations, except to the extent expressly stated in this Stipulation. Execution of this Stipulation shall not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation, and no Party shall be deemed to have agreed that any method, theory or principle of regulation employed in arriving at this Stipulation is appropriate for

resolving any issue in any other proceeding. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.

Dated: June 18, 1999

Community Action Program

By: Catherine Hoskins
Its: Executive Director

Crossroads Urban Center

By: Glenn L. Bailey
Its: Executive Director

PacifiCorp

By: Timothy E. Meier
Its: V.P., CIO

Scottish Power plc

By: Robert Moir
Its: General Manager, Metering Business

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)
PacifiCorp and Scottish Power plc for)
an Order Approving the Issuance of)
PacifiCorp Common Stock.)

DOCKET NO. 98-2035-04

STIPULATION

This Stipulation ("Stipulation") is entered into between PacifiCorp ("PacifiCorp"), Scottish Power plc ("ScottishPower") and Deseret Generation and Transmission Cooperative, Inc. ("Deseret"). PacifiCorp, ScottishPower and Deseret are referred to collectively as the "Parties". PacifiCorp and ScottishPower are referred to jointly as "Applicants".

BACKGROUND

- A. PacifiCorp is an Oregon corporation and an electric public utility in the state of Utah. PacifiCorp provides retail electric service in the states of California, Idaho, Oregon, Utah, Washington and Wyoming.
- B. Scottish Power is a public limited company in Scotland. Scottish Power provides retail electric service in the United Kingdom and, through its subsidiaries, also provides telecommunications and water and wastewater services.
- C. Deseret is a wholesale electric generation and transmission cooperative that provides electric generation, transmission and related services to its rural electric cooperative members in the states of Arizona, Colorado, Nevada, Utah and Wyoming.

D. On June 17, 1999, Deseret filed testimony in this proceeding raising reliability and contract issues and recommending that the Commission reject the proposed merger unless adequate conditions were agreed to by the Applicants.

E. This Stipulation constitutes the negotiated settlement of all the issues raised by Deseret in this docket. Based on the terms of this Stipulation, Deseret recommends that the Commission approve the Application.

TERMS OF STIPULATION

The terms and conditions of this Stipulation are set forth below.

1. Applicants and Deseret agree that they will address the issues raised by Deseret regarding service reliability at the Middleton delivery point or other service reliability issues in Commission Docket No. 99-2035-01 and not in this docket.
2. Applicants agree that, within 30 days after the closing date of the merger, they will meet with representatives of Deseret to discuss and try to resolve service reliability problems at the Middleton delivery point. To the extent the Middleton reliability issues can be resolved or improved through commercially feasible engineering or technical improvements to PacifiCorp's system, PacifiCorp will, upon mutually satisfactory agreement with Deseret regarding payments for the improvements, use its commercially reasonable efforts to pursue those solutions without undue delay.
3. Applicants and Deseret agree that they will evaluate and discuss in good faith with each other all reasonable proposals that provide benefits to the companies and their respective customers.

4. ScottishPower and PacifiCorp agree that the items described in Attachment 1 will not be included in the calculation of the administrative and general expense for Deseret under the provisions of Section 5.3(l) and Exhibit E of the Hunter II Ownership and Management Agreement ("Agreement") between Deseret and Utah Power & Light Company.

GENERAL TERMS AND CONDITIONS

1. The Parties agree that this Stipulation has been reached through settlement negotiations. As such, evidence or conduct or statements made in the negotiation and discussion phases of this Stipulation shall not be admissible in any proceedings before the Commission or any other regulatory agency or court.
2. This Stipulation will be submitted to the Commission for filing and not for approval.
3. Execution of this Stipulation shall not be deemed to constitute an acknowledgment by any party of the validity or invalidity of any particular method, theory or principle of regulation, and no party shall be deemed to have agreed that any principle, method or theory of regulation employed in arriving at this Stipulation is appropriate for resolving any issue in any other proceeding. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.
4. While this Stipulation constitutes the negotiated resolution of all issues raised by Deseret in this Docket, this Stipulation is not intended to resolve all issues that exist or which may arise in the future between those parties concerning the Agreement, reliability issues, or otherwise. Each party reserves without limitation or waiver any or all other rights, remedies and

defenses otherwise available to each such party at law, pursuant to contract, or in equity except as expressly provided pursuant to this Stipulation.

5. The obligations of the Parties under this Stipulation are subject to the Commission's approval of the Application in this docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger between ScottishPower and PacifiCorp.

Dated: August 2, 1999

**DESERET GENERATION &
TRANSMISSION COOPERATIVE**

By: /s/ David F. Crabtree

PACIFICORP

By: /s/ Edward A. Hunter

SCOTTISH POWER PLC

By: /s/ Brian W. Burnett