

RECEIVED

Before the  
PUBLIC SERVICE COMMISSION OF UTAH

JUL 15 4 21 PM '99  
UTAH PUBLIC  
SERVICE COMMISSION

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

Rebuttal Testimony of

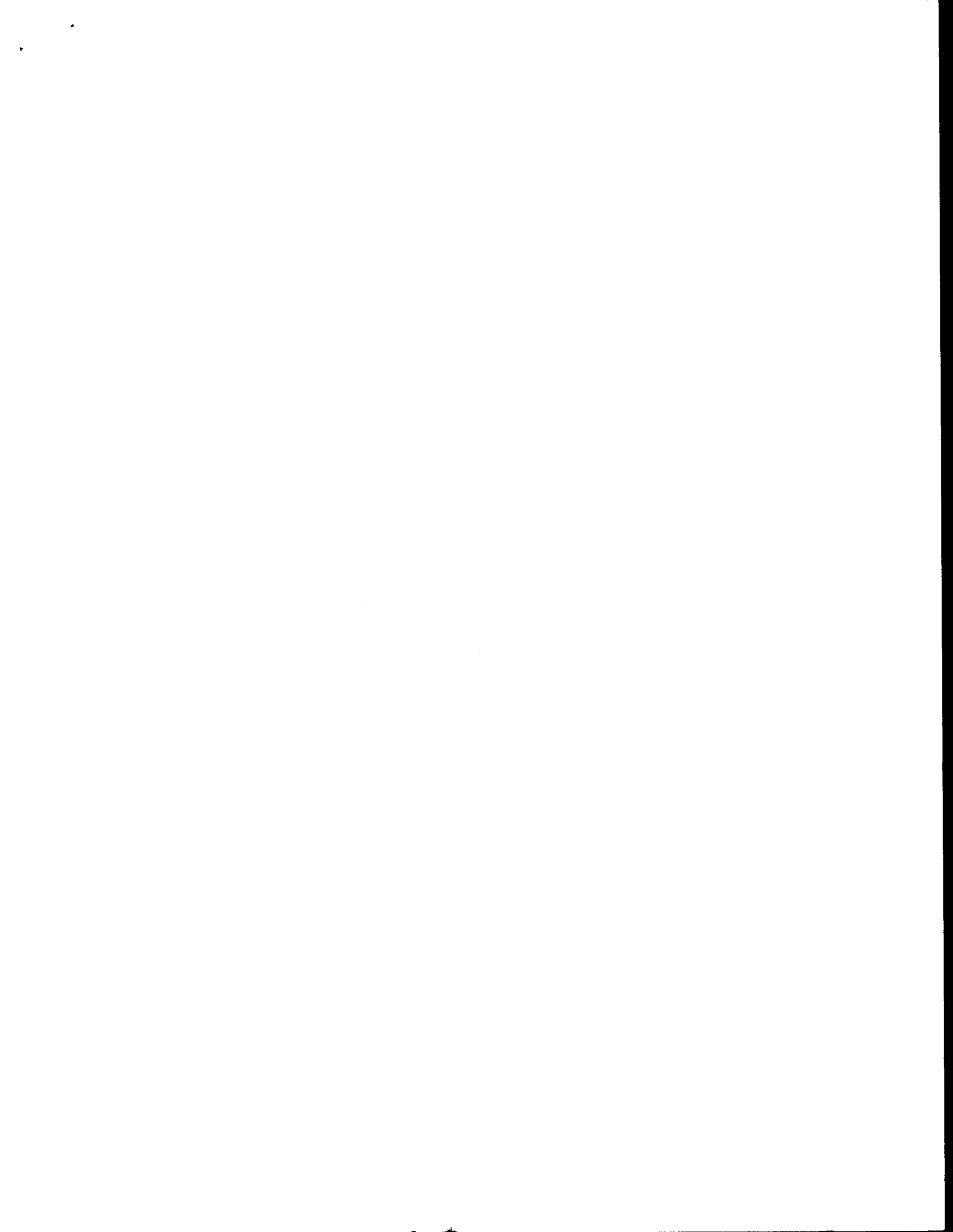
**Maurice Brubaker**

On Behalf of

**Utah Industrial Energy Consumers**

July 1999  
Project 7094

**Brubaker & Associates, Inc.**  
St. Louis, Missouri 63141-2000



1  
2  
3  
4  
5  
6  
7  
8  
9  
10

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

11  
12  
13  
14

Rebuttal Testimony of Maurice Brubaker

15 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

16 A Maurice Brubaker. My business address is 1215 Fern Ridge Parkway, Suite 208,  
17 St. Louis, Missouri 63141-2000.

18 Q ARE YOU THE SAME MAURICE BRUBAKER WHO HAS PREVIOUSLY SUBMITTED  
19 DIRECT TESTIMONY IN THIS PROCEEDING?

20 A Yes, I am.

21 Q WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

22 A In this testimony I will review the particular merger conditions proposed by the Division  
23 of Public Utilities (Division) and compare them to the conditions which I proposed in my  
24 direct testimony on behalf of UIEC. In some cases I agree with the conditions proposed  
by the Division, but in other cases I either disagree with the condition or believe that it  
does not go far enough. In addition, there are other conditions which I believe are  
critical, but which have not been addressed by the Division.

1 Q PLEASE DESCRIBE THE BASIS FOR YOUR COMPARISON.

2 A Exhibit DPU1.2 attached to the direct testimony of Division witness Lowell Alt, Jr. lists  
3 the 46 merger conditions which the Division has developed as a result of its review of  
4 the proposed merger. In my direct testimony, beginning on Page 3, I list 11 specific  
5 merger conditions. In addition, I also propose a four-step process for merger approval,  
6 which immediately follows the recitation of the 11 recommended merger conditions. I  
7 will use the numbering system in these two documents for purposes of comparison.

8 Q ARE THE MERGER CONDITIONS WHICH YOU AND THE DIVISION HAVE SET  
9 FORTH IN THESE DOCUMENTS THE ONLY CONDITIONS WHICH ARE  
10 APPROPRIATE?

11 A No. Both the Division and I expressed our merger conditions as being in addition to,  
12 or strengthened versions of, the commitments and conditions already embraced by  
13 PacifiCorp/Scottish Power.

14 Q YOU NOTED THAT IN ADDITION TO THE ELEVEN MERGER CONDITIONS YOU  
15 ALSO PROPOSED A FOUR-STEP PROCESS FOR MERGER APPROVAL. WHAT IS  
16 THE NATURE OF THIS FOUR-STEP PROCESS?

17 A I will discuss this in more detail later, but it is important to state at the outset that the  
18 four-step process which I have proposed is for the purpose of defining necessary  
19 conditions and actions; and securing the formal support, or at least acquiescence, of  
20 the Applicants to these conditions prior to consummation of the merger. The vehicle  
21 for this is a transition plan, which I will discuss in more detail later. If the Commission  
22 wants to be sure that it can set, and enforce, the conditions that are necessary to make

1 the merger acceptable from the point of view of Utah consumers, then it is essential that  
2 all of this occur prior to the time that the Commission "blesses" the merger. Once the  
3 Commission approves the merger, its ability to impose and enforce conditions is greatly  
4 diminished.

5 **First Category**

6 **Q WHAT IS THE FIRST CATEGORY OF DIVISION CONDITIONS WHICH YOU WILL**  
7 **ADDRESS?**

8 A The first category which I will address is those merger conditions which have been  
9 proposed by the Division where I have no specific corresponding condition, but where  
10 the Division's recommended condition is either consistent with the overall framework of  
11 my conditions, or is otherwise acceptable.

12 **Q WHICH OF THE CONDITIONS PROPOSED BY THE DIVISION FALL INTO THIS**  
13 **CATEGORY?**

14 A Division Conditions 5, 6, 7, 8, 9, 10, 12, 18, 19, 20, 23, 26, 27, 29, 30, 31, 32, 33, 34,  
15 35, 36, 37, 38, 39, 40, 41, 42, 44 and 46 fall into this category. I do not object to any  
16 of these Division conditions.

17 **Second Category**

18 **Q WHAT IS THE SECOND CATEGORY OF DIVISION CONDITIONS?**

19 A The second category of Division conditions consists of those conditions where I do not  
20 have a corresponding recommendation, but where I believe the Division condition to be  
21 unnecessary or addressing the wrong problem. These are Division Condition Nos. 3

1 and 14. Both of these focus on achievement of the \$10 million system-wide savings  
2 in corporate overheads promised by PacifiCorp/Scottish Power. Division Condition No.  
3 3 proposes that the \$10 million savings be guaranteed and measured from PacifiCorp's  
4 1999 actual corporate costs, normalized and adjusted to reflect only costs that would  
5 be included in rates. I disagree with this condition because I do not believe that the  
6 savings can accurately be measured by starting with actual 1999 expenses, normalized  
7 and adjusted. This approach does not take into account the potential cost reductions  
8 that PacifiCorp could achieve on its own, absent the merger.

9 Division Condition No. 14 is intended to eliminate the risk that this \$10 million  
10 in merger savings will not be realized in rates. It is an elaborate requirement for a year  
11 2001 information filing on merger savings, and for a guarantee that such total savings  
12 will not be less than \$10 million. In addition to the concerns I expressed in discussing  
13 Division Merger Condition No. 3, I do not see the value of an informational filing of this  
14 nature.

15 **Third Category**

16 **Q WHAT IS THE THIRD CATEGORY OF CONDITIONS WHICH YOU WILL DISCUSS?**

17 **A** The third category of Division conditions which I will discuss consists of those proposed  
18 conditions where I have made a similar recommendation, but where the specific  
19 recommendation differs to some important degree. Division conditions falling in this  
20 category are Condition Nos. 2, 4, 11, 13, 15, 16, 17, 21, 22, 24, 25, 28, 43 and 45. I  
21 will discuss each of these, in turn.

1 **Q PLEASE BEGIN BY ADDRESSING DIVISION CONDITION NO. 2.**

2 A Division Condition No. 2 would require PacifiCorp/Scottish Power to make a filing of its  
3 proposed cost allocation methodology for approval by the Commission, 30 days after  
4 the completion of the merger. The Division sets forth certain principles which must be  
5 followed, and would require that PacifiCorp/Scottish Power assume the risk that the  
6 Utah Commission may adopt an allocation method which differs from those adopted in  
7 other U.S. or U.K. jurisdictions. While I do not disagree with the principles expressed  
8 as a part of these conditions, I disagree with the timing.

9 UIEC Condition No. 4 contains a similar requirement to file a specific written plan  
10 and detailed proposal for the allocation of corporate overheads and other costs among  
11 affiliated entities. However, UIEC's transition proposal would require that this plan be  
12 filed for review and approval by the Commission prior to the Applicants being allowed  
13 to consummate the merger.

14 As I indicated above, it is absolutely essential that matters of this nature be  
15 defined, and that commitments be secured in advance.

16 **Q HAVE APPLICANTS PROVIDED TESTIMONY EXPLAINING HOW THEY WOULD**  
17 **PROPOSE TO PERFORM THESE ALLOCATIONS?**

18 A Yes. On June 17, 1999 Scottish Power filed with the Utah Public Service Commission  
19 a document entitled "Proposed Post-Merger Treatment of Affiliate Transactions,  
20 Corporate Cost Allocation and Location of Scottish Power Corporate Costs."

1 **Q DOES THIS DOCUMENT PROVIDE THE KIND OF DETAIL THAT IS NECESSARY?**

2 A No, it does not. This document expresses allocation intentions only in the broadest of  
3 generalities. It spends much more time describing the corporate structure and where  
4 costs will be located than it does in explaining what factors will be used to allocate  
5 costs. While useful as an initial explanation, it falls far short of providing the detailed  
6 analysis of corporate costs and allocation methods that are necessary to understand  
7 the process. In addition, it contains no specific numerical data to illustrate how the  
8 methodology would be applied, or what the results would be.

9 **Q IS DIVISION CONDITION NO. 22 SIMILAR TO DIVISION CONDITION NO. 2?**

10 A Yes, in some respects. It would require a filing, 30 days after the approval of the  
11 merger, of a detailed report indicating PacifiCorp's proportionate share of the holding  
12 company's total assets, operating revenues, expenses and number of employees.  
13 Subsequent updates would be made with each semi-annual filing. I believe that the  
14 initial filing of this information should be in the transition plan that is to be filed prior to  
15 Commission final approval of the merger. I have no disagreement with the contents  
16 specified by the Division.

17 **Q PLEASE COMMENT ON DIVISION CONDITION NO. 4.**

18 A Division Condition No. 4 is a requirement that all merger-related costs incurred by  
19 PacifiCorp and Scottish Power be recorded below the line. While I certainly agree with  
20 the intent of this requirement, it is too general.

21 UIEC Condition No. 2, on the other hand, goes further. It is a requirement for  
22 a formal commitment by Applicants not to request the inclusion of transaction costs or



1 transition costs in any revenue requirement filing, and not to contend that a higher rate  
2 of return or some form of earnings sharing mechanism would be appropriate to allow  
3 for the opportunity to recover from customers either these costs or the acquisition  
4 premium.

5 Accordingly, UIEC Condition No. 2 is more comprehensive and more specific  
6 and should be adopted instead of Division Condition No. 4, because UIEC Condition  
7 No. 2 not only requires a formal commitment, but also covers more (hopefully all) of the  
8 ways in which merger-related costs could be inappropriately charged to Utah  
9 consumers.

10 **Q IS DIVISION CONDITION NO. 28 SIMILAR?**

11 A Yes. Division Condition No. 28 is a requirement that rates be set based upon original  
12 cost, and not revalued cost, and that any premium paid by Scottish Power for  
13 PacifiCorp's stock will be disregarded for ratemaking purposes. I believe UIEC  
14 Condition No. 2 encompasses Division Condition Nos. 4 and 28.

15 **Q PLEASE DESCRIBE DIVISION CONDITION NOS. 11 AND 13.**

16 A Division Condition Nos. 11 and 13 address access to books and records and the ability  
17 of the Commission to effectively regulate PacifiCorp. The corresponding UIEC  
18 condition is No. 5. I believe that both sets of proposed conditions are similar, and I  
19 defer to the Division with respect to its specific language and requirements.

1 Q PLEASE ADDRESS DIVISION CONDITION NO. 15.

2 A Division Condition No. 15 would require the filing of a transition plan with the  
3 Commission within six months after the closing date of the merger. While I have also  
4 recommended that a merger transition plan be filed with the Commission, the point of  
5 departure that I have with the Division is one of timing. I believe it is imperative that the  
6 transition plan be filed prior to the final approval of the merger. Filing the transition plan  
7 after the merger has been consummated materially compromises the ability of the  
8 Commission to set the conditions under which the business will be conducted.

9 While the Commission may be able to effect some minor changes by disallowing  
10 certain costs or requiring certain procedures to be followed, the Commission's ability to  
11 make major changes is clearly reduced once it has approved the merger. Rather than  
12 the approach taken by the Division, which permits the plan to be filed after the merger  
13 has been approved, I believe it is essential to have a formal transition plan filed prior  
14 to merger consummation. Because of the importance of this concept, I will repeat here,  
15 verbatim, the recommendation contained at Pages 5 and 6 of my direct testimony:

16 **"Further, I recommend that the Commission require**  
17 **Applicants to file a formal transition plan which will**  
18 **contain the necessary draft agreements and other**  
19 **forms of implementation and which will express the**  
20 **required commitments and guarantees. This tran-**  
21 **sition plan should also indicate, in detail, how**  
22 **Scottish Power plans to reduce costs and increase**  
23 **efficiencies throughout the existing PacifiCorp**  
24 **organization. The transition plan should be filed for**  
25 **Commission review, and acceptance by the Commis-**  
26 **sion, after hearings, of a satisfactory transition plan**  
27 **should be a prerequisite of merger consummation. In**  
28 **other words, the merger approval process should be**  
29 **a multi-step process. The first step would be**  
30 **issuance of an order by this Commission specifying**  
31 **required conditions and directing PacifiCorp/Scottish**  
32 **Power to file a transition plan. The second step is the**

1                    **filing of and hearings on the transition plan that**  
2                    **conforms with the conditions in the Commission's**  
3                    **initial order. The third step would be permission to**  
4                    **consummate the merger based on a Commission**  
5                    **order finding that the transition plan adequately**  
6                    **addresses the required conditions and contains**  
7                    **enforceable commitments. The final step would be**  
8                    **the completion of the merger." (Direct Testimony of**  
9                    **Maurice Brubaker, Page 5, Line 29 through Page 6, Line**  
10                   **8, June 1999.)**

11                   I believe the above is essential, and is the approach that should be taken by the  
12                   Commission. The optimum (and perhaps only) time to extract meaningful commitments  
13                   from Applicants is before the Commission give Applicants what they want. If Applicants  
14                   are required to formally accept specific, comprehensive, written conditions before they  
15                   are given authority to proceed, there is a much greater likelihood that the conditions  
16                   necessary to protect Utah ratepayers can be secured, implemented and subsequently  
17                   enforced. If the Commission, instead, expresses only general conditions, or even waits  
18                   until after it has given merger approval to review and comment on cost allocation plans  
19                   and other key aspects of the merger, the chances of securing a favorable outcome for  
20                   Utah consumers are much diminished. Waiting until after the merger has been  
21                   approved to review the transition plan is like closing the barn door after the horse is  
22                   already out. It doesn't work on the farm, and it doesn't work in mergers.

23    **Q        PLEASE ADDRESS DIVISION CONDITION NO. 16.**

24    **A        Division Condition No. 16 is intended to address the risk that intra-company loans may**  
25           **disadvantage electric customers. In particular, it would require PacifiCorp and Scottish**  
26           **Power to apply to the Commission for approval of intra-company loan agreements. This**  
27           **has the same general intent as UIEC Condition Nos. 3(a) and 3(e). However, Division**

1 Condition No. 16 is extremely vague—stating only that PacifiCorp and Scottish Power  
2 should apply to the Commission for approval of intra-company loan agreements.

3 In contrast, UIEC Condition Nos. 3(a) and 3(e) go much further and explicitly  
4 require certain actions and prohibit others. For example, UIEC Condition 3(a) explicitly  
5 prohibits the inclusion of cross-default provisions in any borrowing agreements by the  
6 various companies which constitute the overall enterprise. UIEC Condition 3(e) also is  
7 comprehensive in that it explicitly prohibits PacifiCorp from assuming any obligation or  
8 liability as guarantor, endorser, surety or otherwise for any parent, affiliate, or other  
9 entity without the express prior approval of the Commission.

10 In my opinion, UIEC Condition Nos. 3(a) and 3(e) are superior to Division  
11 Condition No. 16 because they are much more definitive and do more to protect the  
12 interests of Utah consumers.

13 **Q DOES THE DIVISION HAVE ANOTHER CONDITION THAT IS SIMILAR TO NO. 16?**

14 **A** Yes. Division Condition No. 24 would require PacifiCorp to apply to the Commission  
15 for approval of debt issuances.

16 **Q ARE DIVISION CONDITION NOS. 16 AND 24 EQUIVALENT TO UIEC CONDITIONS**  
17 **NOS. 3(a) AND 3(e)?**

18 **A** I believe that they are similar as to intent, but as noted above, UIEC Conditions 3(a) and  
19 3(e) are more comprehensive and specific, and should be adopted instead of the  
20 corresponding Division conditions.

1 **Q PLEASE COMMENT ON DIVISION CONDITION NO. 17.**

2 **A** The issue addressed here is whether dividend payments by PacifiCorp will interfere with  
3 construction obligations. Division Condition No. 17 would require PacifiCorp to file, for  
4 two years following the merger, a cash flow summary (or other evidence) with its  
5 periodic dividend reports, showing that service will not be impaired by payment of the  
6 dividend.

7 The corresponding UIEC condition is No. 3(b). The UIEC condition is much  
8 more explicit and concrete. It would make dividend payments conditional on the  
9 Directors of PacifiCorp and Scottish Power formally certifying to the Commission that  
10 PacifiCorp has adequate capital to meet all of its commitments and to carry out its  
11 public service obligations. A formal certification by the Utility is much stronger than the  
12 requirement simply to file a cash flow summary. The formal certification is in the nature  
13 of an "official promise," whereas the filing of a cash flow summary could simply be  
14 construed as an informational item, over which there could be interpretation disputes.  
15 For these reasons, I believe that UIEC Condition No. 3(b) is superior to Division  
16 Condition No. 17.

17 **Q WHAT IS CONTAINED IN DIVISION CONDITION NO. 21?**

18 **A** Division Condition No. 21 would permit the use of a hypothetical capital structure for  
19 ratemaking purposes. The hypothetical capital structure would be constructed using  
20 a group of A-rated electric utilities comparable to PacifiCorp.

21 The corresponding UIEC condition is Condition No. 1. It goes beyond the  
22 authority to use a hypothetical capital structure and imposes a requirement that  
23 PacifiCorp/Scottish Power take action to specifically achieve a common equity ratio

1 comparable to A-rated electric utilities, and not less than 47%. It enforces this by  
2 requiring a commitment to reduce dividend payouts and/or contribute equity capital as  
3 necessary to maintain this ratio. Further, in light of concerns about the potential use of  
4 short-term debt, UIEC Condition No. 1 places limits on the amount of outstanding short-  
5 term debt that could be excluded from the calculation of the capital structure.

6 Also, UIEC Condition No. 1 prohibits the inclusion of any "acquisition premium"  
7 in the equity balance used in the capital structure. This can be very important if the  
8 accounting requirements change or if Scottish Power's present intentions on how to  
9 treat the acquisition premium on its books either changes or is changed by its auditors.

10 In addition, the requirement to actually have a capital structure with a specific  
11 equity ratio actually produces the benefits of that equity ratio in terms of credit strength  
12 for the utility. Having a different capital structure, but pretending that the equity  
13 component of the capital structure is larger when it comes to set rates is not the same  
14 thing because the benefits are only provided hypothetically, and not actually. For  
15 example, assume that PacifiCorp actually had a common equity ratio of 35%. Even  
16 though the target was 47%, the actual credit rating of the Company may not be based  
17 on the hypothetical capital structure, but most likely on its actual results of operations.

18 In addition, setting rates on the basis of a hypothetical capital structure with an  
19 equity component that exceeds the actual equity component in the capital structure can  
20 provide the utility with income to which it should not be entitled, because the rate of  
21 return calculated from the hypothetical capital structure may be higher than the rate of  
22 return based on the actual, and lower, equity ratio. For these reasons, I believe that  
23 UIEC Condition No. 1 is superior to Division Condition No. 21.

1 Q PLEASE ADDRESS DIVISION CONDITION NO. 25.

2 A Division Condition No. 25 relates to PUHCA issues. It would require PacifiCorp/  
3 Scottish Power to agree not to assert in a future Utah proceeding that the provisions of  
4 PUHCA or the related Ohio Power v FERC case would preempt the Commission's  
5 jurisdiction over affiliated interest transactions, and would require an explicit waiver of  
6 any such defense in those Utah proceedings.

7 The corresponding UIEC condition is Condition No. 7. UIEC Condition No. 7 is  
8 broader in application, and more specific in terms of detail. It would require PacifiCorp/  
9 Scottish Power also to agree not to assert lack of Commission jurisdiction in any court  
10 proceeding, in addition to any Commission proceeding. Also, it would make the  
11 agreement not to claim lack of jurisdiction applicable even if the Public Utility Company  
12 Holding Act is amended or repealed.

13 UIEC Condition No. 7 does not explicitly reference the Ohio Power v FERC  
14 case. I would recommend adopting UIEC Condition No. 7, broadened to include  
15 specific reference to the Ohio Power v FERC case.

16 Q PLEASE ADDRESS DIVISION CONDITION NOS. 43 AND 45.

17 A These conditions are intended to assure a net positive benefit for consumers.  
18 Condition No. 43 would limit rate increases for a maximum of three years to either  
19 inflationary increases or to increases such that the Utah return on equity would not  
20 exceed that resulting from proceedings in any other state. Condition No. 45 simply  
21 states that rates in Utah shall not increase as a result of the merger.

22 The corresponding UIEC condition is No. 11. In UIEC No. 11, I have proposed  
23 that Scottish Power/PacifiCorp agree to cap rates at current levels for a five-year

1 period. Thus, the protection which I propose extends for two years beyond what the  
2 Division proposes. Further, my recommendation is to cap the rates at their current  
3 levels, as opposed to the Division position which would allow increases to occur under  
4 certain circumstances. I think the rate cap in UIEC Condition No. 11 is a far more  
5 effective means of controlling the actions of PacifiCorp/Scottish Power and ensuring  
6 that Utah customers do not experience rate increases. Further, this requirement makes  
7 Scottish Power accountable for its claims that it can significantly reduce PacifiCorp's  
8 costs.

9 In addition, it is my recommendation that the rate cap be applicable to contract  
10 customers as well as to tariff customers, a point which I will discuss in more detail later  
11 when I respond to the testimony of Division witness Kenneth Powell.

12 **Q IS THERE ANY RATIONALE FOR THE DIVISION'S RECOMMENDATION TO ALLOW**  
13 **INCREASES BUT LIMIT THEM TO INFLATION AS MEASURED BY THE GDP?**

14 **A** No. If the expectation (or at least the representation by Scottish Power) is that  
15 substantial costs can be removed from PacifiCorp's operations, I see no basis for  
16 including a condition which would allow rates to increase at the rate of inflation.  
17 Further, I see no basis for setting the return on equity to equal that resulting from  
18 proceedings in other states. These conditions are simply invitations to file rate cases  
19 in the event that Scottish Power is unable to extract costs from PacifiCorp's operations  
20 to the extent they claim to be able to do.



1 Q ARE THERE INDICATIONS THAT PACIFICORP'S COSTS WILL BE DECREASING?

2 A Yes. As discussed in more detail in my direct testimony (Pages 24 and 25), PacifiCorp  
3 undertook several restructuring measures in 1998. These measures are expected to  
4 result in significant cost reductions. The January 19, 1998 work force reductions  
5 entailed the elimination of 700 positions. I would expect these reductions to produce  
6 annual savings approaching, and perhaps exceeding, \$50 million. Furthermore, in  
7 October 1998 PacifiCorp reported that it was undertaking still additional steps to  
8 achieve further and significant cost reductions, which have been reported as producing  
9 annual savings of approximately \$30 million. In addition, Scottish Power frequently  
10 talks about increased tax efficiency, which I assume means reduced taxes.

11 Rather than put ratepayers at risk for either a potential inability to reduce costs,  
12 or to expose ratepayers to efforts to avoid passing cost savings through, the rate freeze  
13 which I recommend makes Scottish Power/PacifiCorp explicitly accountable for their  
14 claims, and gives them the opportunity to achieve the rewards from cost reduction  
15 efforts, but also requires them to assume the risk that they might not be successful.  
16 The Division conditions that allow increases based on inflation or return on equity  
17 decisions in other jurisdictions simply do not address this situation and do not protect  
18 consumers.

19 **Fourth Category**

20 Q WHAT IS THE FOURTH CATEGORY THAT YOU WILL DISCUSS?

21 A The fourth category consists of those merger conditions which are a part of the UIEC  
22 proposal, where the Division does not have a corresponding condition.

1 Q PLEASE CONTINUE.

2 A There are several UIEC conditions relating to financial areas that do not appear to have  
3 an analog in the Division conditions. These are UIEC Condition Nos. 3(c), 3(d) and 3(f).

4 UIEC Condition 3(c) is a requirement to maintain investment grade bond ratings  
5 for PacifiCorp's outstanding debt. This is related to the maintenance of an adequate  
6 equity ratio in the capital structure, adequate cash flow, and the other factors that the  
7 rating agencies consider in rating bonds. I believe it is an important complement to the  
8 other financial conditions.

9 UIEC Condition 3(d) would require PacifiCorp, in declaring dividends, to certify  
10 to the Commission that it complies with U.C.A. 54-4-27, and also to certify that the  
11 declaration of such dividend will not violate its capital structure commitment.

12 UIEC Condition 3(f) is a requirement to provide management and financial  
13 resources adequate to enable PacifiCorp to meet its commitments, carry out its  
14 authorized activities and to comply with all of its public service obligations.

15 I believe these all are important additions to the conditions proposed by the  
16 Division. In fact, these are conditions that were imposed on Scottish Power and other  
17 utilities in the U.K. If they were necessary and/or acceptable in the U.K., they should  
18 certainly be acceptable in the U.S.

19 Q DOES THE DIVISION HAVE AN ANALOG TO UIEC CONDITION NO. 6?

20 A No. UIEC Condition No. 6 strengthens a commitment made by PacifiCorp/Scottish  
21 Power concerning compliance with Commission regulations regarding affiliated interest  
22 transactions. While PacifiCorp/Scottish Power have committed to comply with current

1 regulations, UIEC Condition No. 6 would extend that commitment to include compliance  
2 with any changes which may be made to those statutes and regulations in the future.

3 **Q DOES THE DIVISION HAVE AN ANALOG TO UIEC CONDITION NO. 8?**

4 A No. UIEC Condition No. 8 would require PacifiCorp/Scottish Power to agree that if  
5 there is a failure to uphold any of the guarantees, conditions or commitments, that the  
6 Commission may make adjustments to rates in order to achieve for customers the  
7 benefits which they would have received had the commitments, conditions, etc., been  
8 fulfilled as intended. I believe this is a valuable condition, because it helps the  
9 Commission to enforce the merger conditions and deliver the expected benefits to  
10 customers.

11 **Q PLEASE ADDRESS UIEC CONDITION NO. 9.**

12 A UIEC Condition No. 9 is a requirement that within 24 months following merger approval,  
13 the transmission portion of PacifiCorp's operations will be separated from the remainder  
14 and placed in a retail transmission organization (RTO) that meets FERC criteria; or if  
15 such RTO does not exist, to file within 18 months after merger approval a plan detailing  
16 how PacifiCorp will arrange with other entities to conduct an independent operation of  
17 these transmission facilities. (UIEC Condition No. 3(g) is related to this condition.)

18 **Q PLEASE EXPLAIN THE IMPORTANCE OF SEPARATING THE TRANSMISSION  
19 ASSETS AND ENSURING THEIR INDEPENDENT OPERATION.**

20 A As explained at Pages 40-44 of my direct testimony, separating the assets and  
21 ensuring their independent operation is necessary to achieving the nondiscriminatory

1 access to the transmission network that is a prerequisite to a properly functioning  
2 competitive market. Unless there is an independent, effective organization to plan,  
3 maintain and operate the transmission system, competition will be an illusion rather than  
4 a reality. In addition to planning and operation and ensuring nondiscriminatory access,  
5 the question of rate level and structure is important. A regional organization would  
6 typically have an area-wide rate, which would permit the movement of power throughout  
7 the region for a single transmission charge, rather than the payment of multiple or  
8 pancaked transmission rates as is the case without a region-wide organization.

9 It is important to require this commitment today, as one of the merger conditions,  
10 because this Commission may not have the requisite authority to directly order  
11 PacifiCorp to create or join an ISO or RTO. This requirement, however, can be  
12 achieved by making it a condition to merger approval. Furthermore, the requirement  
13 to separate the transmission assets is the same as imposed on Scottish Power in the  
14 U.K.

15 **Q DOES THE DIVISION HAVE AN ANALOG TO UIEC CONDITION NO. 10?**

16 **A** No, it does not. UIEC Condition No. 10 would require that Scottish Power/PacifiCorp  
17 disavow any claim for "stranded cost" in connection with movement to retail competition.  
18 While Division witness William Powell alludes to this stranded cost issue, and points out  
19 the inconsistency between the large merger premium and any expectation of stranded  
20 costs, the Division does not make any specific recommendations in this regard.

1 **Q PLEASE EXPLAIN WHY IT IS IMPORTANT TO HAVE THIS COMMITMENT?**

2 A As I explained at Pages 45-47 of my direct testimony, the willingness to pay  
3 substantially above book value is a clear indication of an expectation that the market  
4 value of PacifiCorp's generation assets exceeds their book value. Scottish Power is not  
5 naive, and is well aware of the trend toward competition in the U.S. retail electric  
6 markets. If the Commission does not require PacifiCorp/Scottish Power to relinquish  
7 any claim for stranded cost recovery, then it could subsequently request compensation  
8 for stranded costs, while at the same time argue that it should be allowed to keep part  
9 or all of the benefit of cost reductions because they are necessary to compensate it for  
10 the merger premium, which it voluntarily paid for these "inflated" assets.

11 **Q DOES THE DIVISION ADDRESS THE ISSUE OF THE RATES FOR CONTRACT**  
12 **CUSTOMERS?**

13 A Only to a limited degree. Division witness Kenneth Powell addresses this at Pages 7-9  
14 of his testimony. Mr. Powell essentially defers to the PSC task force on special  
15 contracts, which he chairs, as setting the rules for special contracts, and states that no  
16 specific merger condition is appropriate. According to his testimony, the task force is  
17 to determine the criteria for evaluating contracts and the ratemaking treatment of those  
18 contracts. In terms of how contract customers are to be treated in a rate cap  
19 environment, the particular ratemaking treatment is not relevant. Furthermore, to the  
20 extent that the task force addresses the criteria for evaluating contracts, the task force  
21 activities also would not seem to be particularly relevant to the question at hand.

1 Q PLEASE EXPLAIN THE SITUATION WITH RESPECT TO CONTRACT CUSTOMERS  
2 AND WHY THEY SHOULD BE PROTECTED BY THE SAME OR SIMILAR FACTORS  
3 THAT WOULD APPLY TO REGULAR TARIFF CUSTOMERS.

4 A For special contract customers, the special contract serves the same function that the  
5 standard tariff rate schedule does for non-contract customers. Both the standard tariffs  
6 and the special contracts are subject to Commission review and approval. To the  
7 extent that a rate freeze or a rate cap is appropriate as a merger condition, there is  
8 absolutely no reason why this protection should not be extended to special contract  
9 customers. The special contracts address individual circumstances, and are essentially  
10 equivalent to tariffs that are applicable to a single customer.

11 An important difference, from the perspective of the customer and the protection  
12 that the customer has, is that while the regular tariffs are set by the Commission after  
13 hearings, the special contracts are the result of negotiations between the customer and  
14 the utility. After the customer and the utility reach agreement, these contracts then are  
15 presented to the Commission for review and approval. Thus, the initiating factor for  
16 development of the rates, terms and conditions is negotiations between the customer  
17 and the utility. While there is a track record of negotiations with PacifiCorp (and Utah  
18 & Power Light Company) there is absolutely no track record with Scottish Power. To  
19 the extent that any special contracts reach the end of their term during a rate cap or  
20 rate freeze period, special contract customers are exposed to significant uncertainty by  
21 virtue of having to negotiate new or extended contracts with an entirely unknown entity  
22 which is used to dealing in an atmosphere where customers have choice, rather than  
23 in an atmosphere where customers do not have a choice of alternate supplier.

1           As expressed in my direct testimony (Pages 49-50) fair treatment of these  
2 customers could be assured by requiring PacifiCorp/Scottish Power to renew any  
3 contract expiring during the rate cap period, on terms and conditions the same as exist  
4 in the current contract. The renewal would be to the end of the rate cap period. If  
5 PacifiCorp/Scottish Power are unwilling to do this, the customer should be allowed to  
6 go off-system to an alternate supplier of their choice. To make this latter option a viable  
7 one for customers, however, there must be some form of RTO with an area-wide  
8 transmission rate in place. If there is not, then it would be appropriate to require  
9 renewal or extension of the contract at existing rates and on existing terms and  
10 conditions.

11 **Q   MR. POWELL MAKES A POINT CONCERNING THE CHANGE IN THE RESERVE**  
12 **MARGIN SITUATION BETWEEN THE TIME THAT CURRENT SPECIAL CONTRACTS**  
13 **WERE APPROVED AND WHEN THEY WILL BE UP FOR RENEWAL. DOES THIS**  
14 **INFLUENCE THE POSITION THAT SHOULD BE TAKEN WITH RESPECT TO**  
15 **SPECIAL CONTRACTS?**

16 **A   No. First, Mr. Powell's testimony seems to assume that some situation of excess**  
17 **capacity was the reason for approving each existing contract. That may or may not**  
18 **have been the case. Even if it were the case, and even if owned capacity is no longer**  
19 **surplus to the same extent as previously was the case, this change in circumstance**  
20 **does not address the economics of the contract. It may be that power purchased on**  
21 **the market is an adequate substitute. In other words, to the extent that there is any**  
22 **reason not to renew the special contracts, through the end of the rate cap period, on**  
23 **their current terms as I have suggested, it must flow from a consideration of a**

1 significant change in economics—and not merely some perceived change in the amount  
2 of "surplus" power.

3 It also should be noted that other consumers are not harmed by the renewal,  
4 because their rates are capped during this five-year period. At the end of this period  
5 tariff rates would be up for review, as would any special contracts that had been  
6 renewed during the rate cap period.

7 **Q PLEASE SUMMARIZE YOUR POSITION WITH RESPECT TO SPECIAL CONTRACTS.**

8 **A** I recommend that special contract customers be accorded the same degree of  
9 protection as tariff customers. Any special contracts that reach the end of their term  
10 during this period would be renewed on terms and conditions no less favorable to the  
11 customer than the current contract. This renewal would extend the contract to the end  
12 of the rate cap period. If an adequate RTO with non-pancaked rates was operational,  
13 however, the utility would be allowed to propose to change the prices, terms and  
14 conditions of the contract; but the customer would be given the opportunity to utilize  
15 PacifiCorp's transmission system to purchase from other suppliers.

16 **Q DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

17 **A** Yes.



CERTIFICATE OF SERVICE

I hereby certify that on this 16<sup>th</sup> day of July, 1999, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing Rebuttal Testimony of Maurice Brubaker on behalf of the Utah Industrial Energy Consumers to:

Michael Ginsberg  
Assistant Attorney General  
Utah Division of Public Utilities  
160 East 300-South  
Salt Lake City, Utah 84111

Edward A. Hunter  
Stoel Rives Boley Jones & Grey  
201 S. Main St., #1100  
Salt Lake City, Utah 84111

Doug Tingey  
Assistant Attorney General  
Committee of Consumer Services  
160 East 300 South  
Salt Lake City, Utah 84111

Brian W. Burnett  
Callister, Nebeker & McCullough  
10 East South Temple, #800  
Salt Lake City, Utah 84133

Peter J. Mattheis  
Dean S. Brockbank  
Brickfield, Burchette & Ritts, P.C.  
1025 Thomas Jefferson Street, N.W.  
800 West Tower  
Washington, D.C. 20007

Glen E. Davies  
Parsons, Davies, Kinghorn & Peters, P.C.  
185 South State Street, Suite 700  
Salt Lake City, Utah 84111

Stephen R. Randle  
Randle, Deamer, Zarr, Romrell & Lee, P.C.  
139 East South Temple, Suite 330  
Salt Lake City, Utah 84111-1004

Charles E. Johnson  
1338 Foothill Blvd., Suite 134  
Salt Lake City, Utah 84108

Daniel Moquin  
Assistant Attorney General  
1594 West North Temple, Suite 300  
Salt Lake City, Utah 84116

Lee R. Brown  
V.P. Contracts, Human Resources  
Public & Government Affairs  
238 North 2200 West  
Salt Lake City, Utah 84116

Eric Blank  
Land and Water Fund of the Rockies  
2260 Baseline, Suite 200  
Boulder, CO 80302

Gary A. Dodge  
Parr Waddoups Brown Gee & Loveless  
185 South State Street, Suite 1300  
Salt Lake City, Utah 84111-1536

17540

RECEIVED

JUL 16 4 10 PM '99

UTAH  
SERVICE COMMISSION

---

**STATE OF UTAH  
BEFORE THE  
PUBLIC SERVICE COMMISSION**

---

**DOCKET NO. 98-2035-04**

---

---

**APPLICATION OF  
PACIFICORP AND SCOTTISHPOWER PLC  
FOR AN ORDER APPROVING THE ISSUANCE OF  
PACIFICORP COMMON STOCK**

---

---

**REBUTTAL TESTIMONY OF  
DR. DENNIS W. GOINS  
ON BEHALF OF  
NUCOR STEEL**

---

**July 16, 1999**

---

**STATE OF UTAH  
BEFORE THE  
PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )  
PACIFICORP AND SCOTTISHPOWER PLC ) DOCKET No. 98-2035-04  
FOR AN ORDER APPROVING THE ISSUANCE )  
OF PACIFICORP COMMON STOCK )**

---

**REBUTTAL TESTIMONY  
DR. DENNIS W. GOINS  
ON BEHALF OF  
NUCOR STEEL**

---

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

2 **A.** My name is Dennis W. Goins. I operate Potomac Management Group, an economics  
3 and management consulting firm. My business address is 5801 Westchester Street,  
4 Alexandria, Virginia 22310.

5 **Q. DID YOU FILE DIRECT TESTIMONY IN THIS CASE?**

6 **A.** Yes.

7 **Q. ON WHOSE BEHALF ARE YOU APPEARING?**

8 **A.** I am appearing on behalf of Nucor Steel.

9 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

10 **A.** The purpose is to respond to testimony filed by the Division of Public Utilities  
11 (DPU). In particular, I address the direct testimony filed by DPU witnesses Lowell  
12 E. Alt, Jr., and Kenneth B. Powell.

13 **CONCLUSIONS**

14 **Q. WHAT HAVE YOU CONCLUDED ABOUT THE DPU TESTIMONY?**

15 **A.** On the basis of my review and evaluation, I have concluded that the DPU:

- 1. Conducted a wide-ranging and methodical review of the proposed PacificCorp/ScottishPower merger.
- 2. Apparently adopted a "net positive benefit" standard for judging whether the merger is in the public interest and should be approved by the Commission.
- 3. Concluded that quantifiable merger savings are relatively meager—about \$10 million annually in reduced corporate costs.
- 4. Identified numerous financial and operating risks associated with the merger.
- 5. Recommended that the Commission approve the merger subject to 46 conditions even though the DPU never concluded that the conditioned merger meets the "net positive benefit" standard.
- 6. Failed to provide special contract customers the same protection from merger risks that it recommended for non-special contract customers.

**RECOMMENDATIONS**

**Q. WHAT ARE YOUR RECOMMENDATIONS REGARDING THE DPU TESTIMONY?**

**A.** I recommend that the Commission reject the merger since neither the DPU nor any other party has been able to demonstrate that the merger yields a net positive benefit. However, if the Commission approves the merger, it should impose rate protection conditions that are significantly stronger than those recommended by the DPU.<sup>1</sup> Specifically, the Commission should:

- 1. Reject the DPU's proposed merger condition No. 43 regarding rate increases, and instead impose an immediate across-the-board base rate reduction applicable to non-special contract customers and a post-reduction 5-year rate freeze applicable to all customers.

---

<sup>1</sup> The Commission should impose the conditions detailed in my direct testimony at pages 4-6. Some of these conditions are covered by the DPU's non-rate protection conditions.

1           2. Reject the DPU's conclusion that merger conditions are unnecessary to  
2 protect special contract customers from merger risks.<sup>2</sup> Instead, the  
3 Commission should require that ScottishPower extend existing contracts with  
4 industrial customers (at the customer's option) to coincide with the post-  
5 reduction 5-year rate freeze to ensure that all PacifiCorp customers receive  
6 the rate freeze's protection and benefit. If the Commission elects not to  
7 freeze special contract customers' rates for 5 years, then they should be  
8 allowed to choose their electricity supplier when their contracts expire subject  
9 to rules and guidelines set by the Commission.

#### 10                                           DPU MERGER EVALUATION

11   **Q. PLEASE DESCRIBE THE STANDARD THE DPU USED TO EVALUATE**  
12   **THE PROPOSED MERGER.**

13   A. The DPU does not clearly enunciate the standard it used to evaluate the merger,  
14 although it appears to have used the net positive benefit standard. The DPU  
15 recognizes that the Commission:

16                 ...ordered that the appropriate standard to be used in evaluating the  
17 merger application is a net positive benefit to the public interest in the  
18 State of Utah. We understand this to mean that when all known costs  
19 and benefits related to the merger have been evaluated and netted that if  
20 there is a net positive benefit then the merger should be approved. The  
21 PSC, however, did not set the amount of the net positive benefit  
22 required for merger approval nor did they specifically define the public  
23 interest. The public interest normally considered by the Division  
24 involves those areas within the PSC's jurisdiction such as rates charged  
25 to utility customers. This case demands a broader perspective....  
26 Consideration should be given to the impact on ratepayers,  
27 shareholders, employees, the State of Utah, its citizens and its general  
28 economy.<sup>3</sup>

---

<sup>2</sup> Kenneth Powell, direct testimony, page 9, lines 1-6.

<sup>3</sup> Lowell B. Alt, Jr., direct testimony, page 4, line 14, to page 5, line 3.

1           Instead of clearly explaining how it applied the net positive benefit evaluation  
2 standard, the DPU identified numerous merger-related risks, and then proposed  
3 conditions to mitigate such risks. For example, the DPU says:

4                     ...[W]e soon realized that the ScottishPower merger posed new risks  
5 and that the conditions offered by ScottishPower and PacifiCorp in  
6 their direct testimony would be insufficient to remedy possible adverse  
7 outcomes. This merger is quite different from the previous merger in  
8 that benefits appear to be much smaller and harder to quantify....With  
9 smaller and less certain merger benefits, mitigating the risks becomes  
10 more important if the net positive benefit standard is to be met.

11                    If possible adverse outcomes materialize, they could easily offset the  
12 small assured savings and result in a net harm to the public  
13 interest....The Division has developed a list of conditions that attempt  
14 to mitigate the risks related to specific areas of the merger.<sup>4</sup>

15 **Q. DOES THE DPU'S TESTIMONY EXPRESS DOUBTS THAT THE MERGER**  
16 **YIELDS A NET POSITIVE BENEFIT?**

17 **A.** Yes. For example, consider not only the statements quoted above, but also the  
18 following statements from the DPU's direct testimony.

19           ■ "This proposed merger...is expected to bring very small assured benefits and  
20 large uncertainties and risk."<sup>5</sup>

21           ■ "Only \$10 million in merger savings have been specifically identified from  
22 PacifiCorp and none from ScottishPower....This merger is not as clearly a  
23 'good deal' like the 1989 merger."<sup>6</sup>

24           ■ "...[T]he degree of unsubstantiated claims is enough to stagger all but the  
25 most sanguine supporter."<sup>7</sup>

26 **Q. WHAT TYPES OF RISKS DID THE DPU IDENTIFY?**

27 **A.** The DPU identified numerous merger-related financial and operating risks. More  
28 specifically, the DPU said:

---

<sup>4</sup> Lowell B. Alt, Jr., direct testimony, page 7, line 4, to page 8, line 5.

<sup>5</sup> Lowell B. Alt, Jr., direct testimony, page 9, lines 14-16.

<sup>6</sup> Ronald L. Burrups, direct testimony, page 3, lines 15-19.

<sup>7</sup> William A. Powell, direct testimony, page 2, line 6.

1                   ...[W]e believe that the foremost concerns are that service quality and  
2 reliability may get worse and rates may go up as result of the proposed  
3 merger. These concerns are followed by the concern that the Utah  
4 PSC's ability to regulate the merged company may be adversely  
5 impacted. The possibility of adverse impact on the State, communities  
6 and employees through the loss of jobs, loss of local company presence  
7 and reduced support for community and economic development was  
8 also raised. Other parties have raised concerns about the environment,  
9 energy conservation, municipalization, retail competition and utility  
10 facilities.<sup>8</sup>

11   **Q. HOW DOES THE DPU PROPOSE TO MITIGATE SUCH RISKS?**

12   A. The DPU recommends a set of 46 conditions, including a proposed 3-year rate cap.

13   **Q. WILL THE MERGER YIELD A NET POSITIVE BENEFIT WITH THE**  
14   **DPU'S RECOMMENDED CONDITIONS?**

15   A. No. The DPU says the following regarding the need for its proposed rate cap:

16                   ...[W]e are concerned that not all merger related costs including  
17 transition costs are or would be tracked. We are not sure that our  
18 proposed conditions on asset valuations and the related impact on  
19 property taxes will provide complete protection. We are concerned  
20 about the possible adverse and difficult to predict impact on the  
21 economy from the potential loss of Utah jobs. We are concerned that  
22 our proposed conditions may not completely mitigate all possible risks  
23 of adverse outcomes. The penalties available if service quality and  
24 reliability deteriorate may not be adequate to assure a net positive  
25 benefit.<sup>9</sup>

26                   In my opinion, the DPU's proposed rate cap does not mitigate the risks that it  
27 identified.

28   **Q. PLEASE DESCRIBE THE DPU'S PROPOSED RATE CAP.**

29   A. The DPU's proposed 3-year rate cap would take one of two forms. Under the first  
30 option, rate increases during the 3 years following the merger's approval would be  
31 limited to current levels adjusted by an external inflation index. Under the second  
32 option, rate increases would be limited such that PacifiCorp's earned rate of return  
33 on equity in Utah did not exceed PacifiCorp's allowed rate of return on equity in  
34 another state.<sup>10</sup>

---

<sup>8</sup> Lowell B. Alt, Jr., direct testimony, page 5, lines 5-12.

<sup>9</sup> Lowell B. Alt, Jr., direct testimony, page 10, lines 4-11.

<sup>10</sup> Lowell B. Alt, Jr., direct testimony, page 9, lines 4-11.

1 **Q. WHY IS THE DPU'S PROPOSED RATE CAP INADEQUATE?**

2 A. The 3-year rate cap provides no assurance that ratepayers will share in any  
3 meaningful merger-related savings. In fact, under the inflation indexed option, a  
4 mere 2.5-percent annual inflation rate could generate nearly an 8-percent cumulative  
5 rate increase over 3 years. A mechanism that permits such increases provides no  
6 assurance of a net positive benefit to ratepayers.

7 **Q. IS ANOTHER OPTION AVAILABLE TO PROTECT RATEPAYERS**  
8 **BETTER THAN THE DPU'S RATE CAP?**

9 A. Yes. In my direct testimony I recommended that if it approves the merger, the  
10 Commission should impose an immediate across-the-board base rate reduction  
11 applicable to non-special contract customers and a post-reduction 5-year rate freeze  
12 applicable to all customers. Post-merger regulatory protection cannot undo a merger  
13 and its ill effects. As a result, my recommended rate reduction and post-merger rate  
14 freeze (along with other conditions detailed in my direct testimony) are necessary to:

- 15 ■ Provide assurance that the merger's alleged benefits are achieved
- 16 ■ Ensure that ratepayers share in achieved merger benefits
- 17 ■ Insulate ratepayers from potential merger-related risks.

18 A rate reduction is necessary to protect non-special contract customers from  
19 merger-related risks, and to put meaning behind ScottishPower's numerous, and  
20 generally unsupported claims of merger benefits. In addition, the 5-year rate freeze  
21 for all customers is necessary to protect ratepayers from a post-reduction (or post-  
22 contract) series of rate increases. A base rate reduction and 5-year rate freeze,  
23 combined with my other recommended merger conditions, would significantly  
24 increase the likelihood that customers receive some tangible, net positive benefit  
25 from the merger.<sup>11</sup>

---

<sup>11</sup> The Staff of the Oregon Public Utility Commission has recommended a 6-year, 2.5-percent annual rate credit to mitigate the proposed merger's risks and provide ratepayers with tangible merger benefits. "Staff cannot conceive of all risks potentially presented by the merger or all conditions that would be necessary to



1 **Q. WOULD THE DPU'S RATE CAP APPLY TO ALL CUSTOMERS?**

2 **A.** No. As I noted earlier, the DPU has apparently concluded that merger conditions are  
3 unnecessary to protect special contract customers from merger risks.<sup>12</sup> Special  
4 contract customers deserve the same protection as other customers from merger risks.  
5 To exclude special contract customers from such protection is unjust, unreasonable,  
6 and discriminatory. While special contract customers should not participate in my  
7 recommended rate reduction, they should have the opportunity to extend their  
8 existing contracts to coincide with my recommended 5-year rate freeze. This  
9 condition would ensure that all PacifiCorp customers receive the rate freeze's  
10 protection and benefit. If the Commission elects not to freeze special contract  
11 customers' rates for 5 years, then those customers should be allowed to choose their  
12 electricity supplier when their contracts expire subject to rules and guidelines set by  
13 the Commission.

14 **Q. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY?**

15 **A.** Yes.

---

protect PacifiCorp ratepayers against such risks. A financial benefit [rate credit] is required to offset known and unknown risks of the merger and to provide some expected net benefit to PacifiCorp's customers." See John S. Thornton, Jr., and Thomas P. Riordan, Surrebuttal Testimony, Docket No. UM-918, July 14, 1999, page 30, lines 13-17.

<sup>12</sup> Kenneth Powell, direct testimony, page 9, lines 1-6.

STATE OF UTAH  
BEFORE THE  
PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF )  
PACIFICORP AND SCOTTISHPOWER PLC ) DOCKET NO. 98-2035-04  
FOR AN ORDER APPROVING THE ISSUANCE )  
OF PACIFICORP COMMON STOCK )

AFFIDAVIT  
OF  
DENNIS W. GOINS

County of Fairfax

:SS

State of Virginia

Dr. Dennis W. Goins, having been sworn in due form of law, on oath, deposes and says that the foregoing testimony was prepared by him or under his supervision and that the information contained therein is true and correct to the best of his knowledge, information, and belief.

Dennis W. Goins  
Dennis W. Goins  
Affiant

Subscribed and sworn before me this 16<sup>th</sup> day of the month of July, 1999.

Notarial Seal

Balena A. Cuyper  
Notary Public

My commission expires: 4-30-02

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 1999, I caused via federal express or mail, first class, postage prepaid, a true and correct copy of the foregoing **REBUTTAL TESTIMONY OF DR. DENNIS W. GOINS ON BEHALF OF NUCOR STEEL** to:

Michael Ginsberg  
Assistant Attorney General  
Utah Division of Public Utilities  
160 East 300 South  
Salt Lake City, UT 84111

Edward A. Hunter  
Stoel, Rives, Boley, Jones & Grey  
201 South Main Street, #1100  
Salt Lake City, UT 84111

Doug Tingey  
Assistant Attorney General  
160 East 300 South  
Salt Lake City, UT 84111

Brian Burnett  
Callister, Nebeker & McCullough  
10 East South Temple, #800  
Salt Lake City, UT 84133

Lee R. Brown  
Vice President, Contracts, Human Resources,  
Public & Government Affairs  
238 North 2200 West  
Salt Lake City, UT 84116

F. Robert Reeder  
William J. Evans  
Parsons Behle & Latimer  
201 South Main Street, Suite 180  
P.O. Box 45898  
Salt Lake City, UT 84145-0898

Stephen R. Randle  
Randle, Deamer, Zarr, Romrell & Lee, P.C.  
139 East South Temple, Suite 330  
Salt Lake City, UT 84111-1004

Dr. Charles E. Johnson  
The Three Parties  
1339 Foothill Boulevard, Suite 134  
Salt Lake City, UT 84108

Daniel Moquin  
Assistant Attorney General  
1594 West North Temple, Suite 300  
Salt Lake City, UT 84116

Gary Dodge  
Parr, Waddoups, Brown, Gee & Loveless  
185 South State Street, Suite 1300  
Salt Lake City, UT 84111-1536

Eric Blank  
Land and Water Fund of the Rockies  
2260 Baseline, Suite 200  
Boulder, CO 80302

Bill Thomas Peters  
David W. Scofield  
Parsons, Davies, Kinghorn & Peters, P.C.  
185 South State Street, Suite 700  
Salt Lake City, UT 84111

Roger O. Tew  
60 South 600 East, Suite 200  
Salt Lake City, UT 84102

Steven W. Allred  
Salt Lake City Law Department  
451 South State Street, Suite 505  
Salt Lake City, UT 84111

David F. Crabtree  
Deseret Generation & Transmission  
Co-operative  
5295 South 300 West, Suite 500  
Murray, UT 84107

Matthew F. McNulty, III  
VanCott Bagley Cornwall & McCarth  
50 South Main Street, Suite 1600  
P.O. Box 45340  
Salt Lake City, UT 84145

Paul T. Morris  
3600 Constitution Boulevard  
West Valley City, UT 84119

Brian L. Farr  
Assistant Attorney General  
160 East 300 South  
P.O. Box 140857  
Salt Lake City, UT 84114-0857

  
Peter J. Mattheis

STATE OF UTAH  
BEFORE THE  
PUBLIC SERVICE COMMISSION

RECEIVED

JUL 19 4 02 PM '99

UTAH PUBLIC  
SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF )  
PACIFICORP AND SCOTTISHPOWER PLC ) DOCKET No. 98-2035-04  
FOR AN ORDER APPROVING THE ISSUANCE )  
OF PACIFICORP COMMON STOCK )

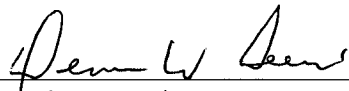
AFFIDAVIT  
OF  
DENNIS W. GOINS

County of Fairfax

:SS

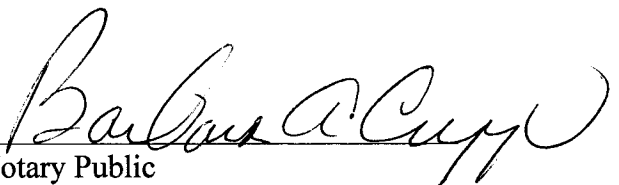
State of Virginia

Dr. Dennis W. Goins, having been sworn in due form of law, on oath, deposes and says that the foregoing testimony was prepared by him or under his supervision and that the information contained therein is true and correct to the best of his knowledge, information, and belief.

  
\_\_\_\_\_  
Dennis W. Goins  
Affiant

Subscribed and sworn before me this 16<sup>th</sup> day of the month of July, 1999.

Notarial Seal

  
\_\_\_\_\_  
Notary Public

My commission expires: 4-30-02

17536

RECEIVED

JUL 16 4 23 PM '99

UTAH PUBLIC  
SERVICE COMMISSION

Witness CCS-1R  
Exhibit CCS-1R

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

---

In the Matter of the Application	)	Docket No. 98-2035-04
of PacifiCorp and ScottishPower plc	)	
for an Order Approving the Issuance	)	PREFILED REBUTTAL TESTIMONY OF
of PacifiCorp Common Stock	)	DANIEL E. GIMBLE
	)	FOR THE
	)	COMMITTEE OF CONSUMER SERVICES

---

July 16, 1999

## TABLE OF CONTENTS

I.	Introduction .....	-1-
II.	Rate Proposals .....	-1-
III.	DPU Merger Conditions .....	-4-
IV.	Stranded Costs .....	-5-
V.	Regional Transmission Organizations (RTOs) .....	-6-
VI.	Method for Allocating Corporate Costs .....	-6-
VII.	Committee Recommendation .....	-7-

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

I. Introduction

**Q: ARE YOU THE SAME DANIEL E. GIMBLE THAT FILED DIRECT TESTIMONY ON BEHALF OF THE COMMITTEE OF CONSUMER SERVICES (“COMMITTEE” OR “CCS”) ON JUNE 18, 1999, RELATING TO THE PROPOSED MERGER BETWEEN SCOTTISHPOWER AND PACIFICORP?**

A: Yes I am.

**Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A: In my rebuttal testimony I respond primarily to certain issues raised in the direct testimony of various large customer witnesses and Division of Public Utilities’ (“DPU”) witnesses Alt and W.A. Powell. Specifically, my testimony addresses the following:

- Rate proposals;
- The list of merger-related conditions advanced by the DPU;
- Stranded costs;
- Regional Transmission Organizations (RTOs);
- ScottishPower’s proposed method for allocating corporate costs;
- Committee recommendation.

II. Rate Proposals

**Q: PLEASE BRIEFLY SUMMARIZE THE RATE PROPOSALS DELINEATED BY WITNESSES ALT (DPU), BRUBAKER (UIEC), ANDERSON (LCG), AND GOINS (NUCOR).**

A: As a first order condition, Mr. Alt recommends that rates (revenue requirement) in Utah be capped for a maximum period of three years. He proposes to limit annual rate increases during that time period to some general measure of inflation such as the Gross Domestic Product (GDP). In the alternative, he proposes to “limit rate increases above current levels such that the rate of return on equity in Utah would not exceed that resulting from rates set in proceedings in any other PacifiCorp state.” [Alt, Direct, page 9]



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

As a condition of merger approval, Dr. Anderson recommends that there should be a five-year period “to convert [ScottishPower’s] claimed efficiencies and cost reductions into price stability or price reduction guarantees.” [Anderson, Direct, page 62]

Dr. Goins recommends that merger approval be conditioned on a five-year rate freeze for PacifiCorp’s retail and special contract customers in Utah. He also proposes an immediate, across-the-board rate decrease for retail customers prior to implementing the rate freeze. [Goins, Direct, page 15]

Mr. Brubaker recommends that merger approval be conditioned on a five-year rate cap. Regarding special contract customers, he proposes that “[such] customers should be permitted, at their option, to renew existing contracts on terms no less favorable to the customer than the terms of the current special contracts, or (if an RTO with non-pancaked rates is in place) be allowed to seek alternative supplies if PacifiCorp/ScottishPower is not willing to agree to renewal and extension on such terms.” [Brubaker, Direct, page 5]

**Q: WHAT IS THE COMMITTEE’S POSITION ON THESE PROPOSALS TO CONDITION MERGER APPROVAL ON SOME FORM OF RATE PLAN DESIGNED TO CAP, FREEZE OR DECREASE CURRENT RETAIL RATE LEVELS IN UTAH?**

**A:** While we would strongly oppose any condition to freeze retail rates at current levels, the Committee believes that a constructive rate plan calling for rate caps or rate decreases is absolutely necessary to:

- (1) ensure the proposed merger fosters a positive net benefit for residential and small business customers in Utah that is significant and sustainable; and
- (2) ensure management and shareholders have a pecuniary stake in merger-related outcomes so that there is an appropriate sharing of the benefits and the risks.

1 Thus, common ground exists between the DPU, CCS and large customer  
2 interveners on the need for a credible rate plan—at least for retail customers.

3  
4 In my direct testimony I invited the Applicants to develop and file a credible rate  
5 plan as part of their Rebuttal Testimony. It is my understanding that the  
6 Applicants intend to provide such a plan prior to the start of hearings. The  
7 Committee, therefore, reserves the right to respond to the Applicants' proposed  
8 rate plan and comment on the reasonableness of any rate plan at the time of  
9 hearings.

10  
11 **Q: WHAT IS THE COMMITTEE'S POSITION ON SUCH A RATE PLAN BEING**  
12 **EXTENDED TO SPECIAL CONTRACT CUSTOMERS IN UTAH?**

13 **A:** The Utah Public Service Commission ("Utah Commission" or "Commission") has  
14 established a task force to study what criteria and ratemaking treatment should  
15 be applied to special contracts in Utah. The recommendations issued from that  
16 task force will likely guide the Commission in setting policies relating to its formal  
17 review of future special contracts. To extend a rate plan to special contract  
18 customers that, for example, caps special contract prices at existing levels,  
19 would undermine the efforts of the task force and hinder the Company's ability to  
20 effectively negotiate with such customers. In short, the salient features of any  
21 rate plan should not be extended to special contract customers.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

1 III. DPU Merger Conditions2 Q: **HAVE YOU REVIEWED THE LIST OF FORTY-SIX MERGER CONDITIONS**  
3 **ATTACHED AS EXHIBIT NO. DPU 1.2 TO MR. ALT'S DIRECT TESTIMONY?**

4 A: Yes.

5  
6 Q: **IN YOUR OPINION ARE THEY ADEQUATE TO ENSURE THAT A MERGER**  
7 **REVIEW STANDARD OF POSITIVE NET BENEFITS IS MET?**8 A: The DPU has given considerable thought to merger-related conditions and has  
9 put together an impressive list. In the absence of a credible rate plan, however,  
10 these conditions are not sufficient to assure that a positive net benefits "test" is  
11 met. Mr. Alt appears to concur with this opinion when he states:12 "We believe that a rate cap is needed to sufficiently lock in savings from  
13 the merger so that a net positive benefit is more assured. This proposed  
14 merger...is expected to bring very small assured benefits and large  
15 uncertainties and risk. A rate cap allows the risk of future merger benefits  
16 to ratepayers to be shared with PacifiCorp shareholders who will receive a  
17 merger benefit up front with the stock premium. The three year term would  
18 allow a sharing of risks until merger savings begin to occur. Other Division  
19 conditions should help mitigate this risk, but we felt that a rate cap was  
20 necessary for us to assure net positive benefits and therefore allow us to  
21 recommend approval of the merger." [Alt, Direct, page 9]  
2223 Q: **AT THIS TIME DOES THE COMMITTEE PROPOSE ANY ADDITIONS, OR**  
24 **MODIFICATIONS, TO THE LIST OFFERED BY THE DPU?**25 A: No. Over the past two weeks, the Applicants and the DPU have been discussing  
26 the DPU's list of conditions. We have been informed that a revised list of DPU  
27 conditions will be circulated among the parties no later than July 20, 1999. We  
28 anticipate that this revised list will serve as the basis for settlement talks. The  
29 Committee will respond to the revised list at the appropriate time with proposed  
30 additions and/or changes.  
31  
32  
33  
34  
35

1 IV. Stranded Costs2 Q: **WHAT IS THE NEXUS BETWEEN STRANDED COSTS AND THIS MERGER**  
3 **PROCEEDING?**4 A: In their respective testimonies, a number of witnesses --Brubaker (UIEC), Goins  
5 (Nucor) and W.A. Powell (DPU)-- duly note that ScottishPower is paying a  
6 premium for PacifiCorp assets that exceeds both the depreciated book value and  
7 the market value (i.e., PacifiCorp's stock price) of those assets. Since  
8 ScottishPower is paying a premium above both "book" and "market" value for all  
9 PacifiCorp assets, Mr. Brubaker and Dr. Goins generally argue that, as a  
10 condition of merger approval, ScottishPower forego any claim to future stranded  
11 cost recovery relating to generation and transmission plant. Dr. Powell simply  
12 suggests: "...the willingness of ScottishPower to pay an acquisition premium may  
13 be an indication that PacifiCorp would not face any stranded costs if the electric  
14 industry were restructured." [W.A. Powell, Direct, page 28]

15

16 Q: **HOW DO YOU RESPOND TO MR. BRUBAKER'S, DR. GOINS' AND DR.**  
17 **POWELL'S TESTIMONIES ON STRANDED COSTS?**18 A: The fact that ScottishPower is paying a merger premium significantly in excess  
19 of both the book and the market value of PacifiCorp's assets strongly suggests  
20 that ScottishPower's exposure to positive stranded costs is negligible. The real  
21 issue, therefore, is that of negative stranded costs and how to fairly compensate  
22 Utah's retail customers for the value of PacifiCorp's low cost generation assets  
23 should the Utah legislature decide to move forward with electric restructuring in  
24 Utah. We would certainly welcome and support a merger condition that limited  
25 future discussions of stranded costs to that of negative stranded costs and  
26 ratepayer compensation.

27

28

29

30

31

32

1 V. Regional Transmission Organizations (RTOs)

2 Q: **AS ONE OF HIS MERGER CONDITIONS, MR. BRUBAKER PROPOSES THAT**  
3 **SCOTTISHPOWER BE REQUIRED TO SEPARATE OUT PACIFICORP'S**  
4 **TRANSMISSION ASSETS AND JOIN AN RTO WITHIN TWENTY-FOUR**  
5 **MONTHS AFTER MERGER APPROVAL. IN THE EVENT THAT AN RTO**  
6 **DOES NOT EXIST AT THAT TIME, HE RECOMMENDS THAT THE**  
7 **APPLICANTS FILE A PLAN EIGHTEEN MONTHS AFTER MERGER**  
8 **APPROVAL "DETAILING HOW PACIFICORP WILL ARRANGE WITH OTHER**  
9 **ENTITIES TO CONDUCT AN INDEPENDENT OPERATION OF THESE**  
10 **TRANSMISSION FACILITIES." WHAT IS THE COMMITTEE'S POSITION ON**  
11 **THIS PROPOSED MERGER CONDITION?**

12 A: PacifiCorp should not be required to split out its transmission plant from its  
13 vertically-integrated asset base as a condition of this merger. Nor should  
14 PacifiCorp be conditionally mandated to join an RTO or "conduct an independent  
15 operation of transmission facilities." Whether or not Utah proceeds down the  
16 restructuring path (and at what speed) is clearly a policy decision to be made at  
17 the Utah Legislature.

18  
19 VI. Method for Allocating Corporate Costs

20 Q: **HAS SCOTTISHPOWER SUBMITTED A METHOD FOR ALLOCATING**  
21 **CORPORATE COSTS?**

22 A: Pursuant to paragraph 21 of the Wyoming Stipulation, ScottishPower agreed to  
23 provide a proposed method for allocating corporate costs. A copy of  
24 ScottishPower's proposed method was filed in Utah on June 18, 1999.

25  
26 Q: **HAS A SCOTTISHPOWER WITNESS FILED TESTIMONY IN UTAH WHICH**  
27 **SUPPORTS AND EXPLAINS ITS PROPOSED METHOD?**

28 A: Not at this time. I expect ScottishPower will file supplemental testimony in  
29 support of its proposed method at some point in the Utah proceeding.

30  
31 Committee witness Talbot will respond to that testimony either prior to or during

1           hearings.

2

3 VII. Committee Recommendation

4 Q:   **HAS THE COMMITTEE'S RECOMMENDATION ON THE PROPOSED**  
5       **MERGER BETWEEN SCOTTISHPOWER AND PACIFICORP CHANGED AS A**  
6       **RESULT OF REVIEWING THE TESTIMONY OF OTHER PARTIES TO THIS**  
7       **PROCEEDING?**

8 A:   No. The Committee continues to recommend that the Utah Commission should  
9       deny the Applicants' proposal to merge the two companies.

10

11 Q:   **DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

12 A:   Yes it does.

17529

RECEIVED

JUL 16 12 32 PM '99

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

UTAH  
SERVICE COMMISSION

---

IN THE MATTER OF THE APPLICATION OF )	DOCKET NO. 98-2035-04
PACIFICORP AND SCOTTISHPOWER PLC )	UTAH DIVISION OF
FOR AN ORDER APPROVING THE ISSUANCE )	PUBLIC UTILITIES
OF PACIFICORP COMMON STOCK )	EXHIBIT NO. DPU 1.0R

---

REBUTTAL TESTIMONY OF LOWELL E. ALT, JR.

July 16<sup>th</sup>, 1999 Testimony

The Division

Alpha betized

---

1 **Q. PLEASE STATE YOUR NAME.**

2 A. Lowell E. Alt, Jr.

3 **Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS CASE?**

4 A. Yes.

5 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

6 A. To propose two additional merger conditions which the Division, based on our review of  
7 Maurice Brubaker's direct testimony, believes will further mitigate the concerns identified  
8 in our direct testimony.

9 **Q. WHAT IS THE FIRST PROPOSED CONDITION?**

10 A. ScottishPower and PacifiCorp shall provide management and financial resources adequate  
11 to enable PacifiCorp to meet its commitments, carry out its authorized activities and  
12 comply with its public service obligations.

13 **Q. WHAT VALUE DOES THIS CONDITION ADD?**

14 A. This condition helps mitigate the risk that ScottishPower might draw resources from  
15 PacifiCorp such that PacifiCorp would be unable to provide adequate service.

16 **Q. WHAT IS THE SECOND PROPOSED CONDITION?**

17 A. In the event that PacifiCorp and ScottishPower do not comply with the merger conditions,  
18 the Commission may make appropriate ratemaking adjustments to give full effect to these  
19 conditions. The Commission may exercise its authority to make, for retail ratemaking  
20 purposes, adjustments for misallocation of costs from non-regulated business to  
21 PacifiCorp and ScottishPower.



1 **Q. WHAT VALUE DOES THIS CONDITION ADD?**

2 A. This condition helps to mitigate the risk that ScottishPower and PacifiCorp may cause  
3 increased costs or decreased service quality through noncompliance with merger  
4 conditions.

5 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

6 A. Yes.

17531

RECEIVED

JUL 16 12 39 PM '99

OFFICE OF THE  
PUBLIC SERVICE COMMISSION

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

---

In the Matter of the Application of	)	Docket 98-2035-04
PACIFICORP and SCOTTISH POWER	)	Division of Public Utilities
PLC for an Order Approving the Issuance	)	Rebuttal Testimony of Ronald L. Burrup
of PACIFICORP common stock	)	Exhibit No. DPU 3.0R (RLB)

---

July 16, 1999

1 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A My name is Ronald L Burrup, I am employed by the Utah Division of Public  
3 Utilities (Division) as a Technical Consultant.

4 Q HAVE YOU PREVIOUSLY TESTIFIED IN THIS CASE?

5 A Yes.

6 Q WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

7 A There are three purposes, first I explain why the proposed merger condition of Mr.  
8 Carl N. Stover regarding establishing a fixed A&G allocation factor of 34.24% for the  
9 Hunter II ownership and management agreement is not in the public interest. Second, in  
10 response to the testimony of Mr. David B. Winder, regarding corporate citizenship, I  
11 propose a condition regarding procurement policy and competitive bidding. Finally, I  
12 concur with some merger conditions proposed by Mr. Maruice Brubaker regarding  
13 dividend payment policy and assumption of obligations. These new conditions are shown  
14 separately on Exhibit No. DPU RLB 3.1R.

15 Q WHAT ARE YOUR COMMENTS REGARDING MR. STOVER'S TESTIMONY?

16 A Mr. Stover's statement that the merger should not be approved because there is no  
17 net benefit is not correct. There is a benefit to PacifiCorp customers because the A&G  
18 expenses paid by Deseret reduce coal costs for PacifiCorp customers. If the formula is  
19 frozen then Utah Power customers will be harmed if A&G expenses increase. Likewise if  
20 A&G expenses fall, Deseret will be harmed because they will not share in the benefit of

1 any reduction. The formula was set by contract between the two parties, it should be  
2 allowed to change as the contract terms dictate. Freezing the A&G expense formula is  
3 not in the public interest.

4 Q PLEASE COMMENT ON THE TESTIMONY OF MR. DAVID B. WINDER.

5 A Mr. Winder's testimony discusses economic development, support of Utah  
6 industries and businesses, and local control issues. In this regard the Division again  
7 reviewed the prior merger order referred to by Mr. Winder, and found that a merger  
8 condition relating to procurement policy and competitive bidding had not been included.  
9 The Division recommends that the Commission include the following as a merge  
10 condition.

11 **PacifiCorp shall continue to comply with the procurement policy and**  
12 **competitive bidding requirements approved by the Commission on January**  
13 **16, 1991 in Docket 90-2035-05.**  
14

15 Q PLEASE COMMENT ON THE TESTIMONY OF MR. MAURICE BRUBAKER

16 A My original testimony expressed a concern of the Division that dividend  
17 payments not interfere with the capital requirements of the utility. I recommended a  
18 condition that required a cash flow statement with each dividend report. Mr. Brubaker's  
19 testimony recommends similar conditions. In addition, Mr. Brubaker recommends a  
20 condition regarding PacifiCorp's assumption of other's obligations which I also believe is  
21 appropriate. The Division adopts some of Mr. Brubaker's concepts in the following two

1 proposed conditions.

2 **For two years following the merger, PacifiCorp shall file a cash flow**  
3 **summary (or other evidence) with its dividend reports, showing that service**  
4 **will not be impaired by payment of the dividend, and shall comply with the**  
5 **provisions of Utah Code Ann. 54-4-27. In addition, an officer of PacifiCorp**  
6 **shall be satisfied and shall formally certify to the Commission that**  
7 **PacifiCorp has adequate capital to meet all of its outstanding commitments**  
8 **and carry out its public service obligations in the State of Utah.**  
9

10 **PacifiCorp shall not, without the approval of the Commission, assume any**  
11 **obligation or liability as guarantor, endorser, surety or otherwise for**  
12 **ScottishPower or its affiliates provided that this condition shall not prevent**  
13 **PacifiCorp from assuming any obligation or liability on behalf of a**  
14 **subsidiary of PacifiCorp. ScottishPower shall not pledge any of the assets of**  
15 **the regulated business of PacifiCorp as backing for any securities which**  
16 **ScottishPower or its affiliates (but excluding PacifiCorp and its subsidiaries)**  
17 **may issue.**  
18

19 Q DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?

20 A. Yes.

Additional merger conditions proposed in rebuttal testimony.

PacifiCorp shall continue to comply with the procurement policy and competitive bidding requirements approved by the Commission on January 16, 1991 in Docket 90-2035-05.

For two years following the merger, PacifiCorp shall file a cash flow summary (or other evidence) with its dividend reports, 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.

PacifiCorp shall not, without the approval of the Commission, assume any obligation or liability as guarantor, endorser, surety or otherwise for ScottishPower or its affiliates provided that this condition shall not prevent PacifiCorp from assuming any obligation or liability on behalf of a subsidiary of PacifiCorp. ScottishPower shall not pledge any of the assets of the regulated business of PacifiCorp as backing for any securities which ScottishPower or its affiliates (but excluding PacifiCorp and its subsidiaries) may issue.

17530

RECEIVED

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH JUL 16 12 40 PM '99

UTAH PUBLIC  
SERVICE COMMISSION

---

IN THE MATTER OF THE APPLICATION OF	)DOCKET NO. 98-2035-04
PACIFICORP AND SCOTTISH POWER PLC	)UTAH DIVISION OF PUBLIC UTILITIES
FOR AN ORDER APPROVING THE	)EXHIBIT NO. DPU R2.0
ISSUANCE OF PACIFICORP COMMON STOCK)	

---

REBUTTAL TESTIMONY OF MARY H. CLEVELAND

FOR THE

DIVISION OF PUBLIC UTILITIES

DEPARTMENT OF COMMERCE

STATE OF UTAH

July 16, 1999

**I. INTRODUCTION**

1 **Q. PLEASE STATE YOUR NAME FOR THE RECORD.**

2 **A. Mary H. Cleveland**

3 **Q. ARE YOU THE SAME MARY H. CLEVELAND WHO PREVIOUSLY SUBMITTED**  
4 **DIRECT TESTIMONY IN THIS PROCEEDING?**

5 **A. Yes.**

6 **II. PURPOSE OF TESTIMONY**

7 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

8 My rebuttal testimony proposes an additional condition which the Division, based  
9 on our review of the direct testimonies of the other parties to this docket, believes is  
10 necessary to further mitigate the issues and concerns identified in my direct testimony,  
11 Exhibit No. DPU 2.0.

12 **III. ADDITIONAL CONDITION**

13 **Q. WHAT IS THE ADDITIONAL CONDITION YOU ARE PROPOSING?**

14 **A. As I stated in my direct testimony, corporate structure will impact the extent as well**



1 as the complexity of affiliated transactions. Additionally, any future acquisitions made by  
2 ScottishPower are likely to impact corporate costs. Therefore, ScottishPower should be  
3 required to notify the Utah Commission when it enters into a new merger, acquires an  
4 additional entity, or makes a major change in its corporate structure. This is similar to the  
5 following condition imposed on the PacifiCorp / Utah Power merger which should continue  
6 to apply to PacifiCorp:

7 PacifiCorp shall not enter into a new merger, change its corporate  
8 structure to form a holding company, or make any other major change  
9 in corporate structure without prior notice to this Commission.

10 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

11 **A. Yes.**

17533

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH- RECEIVED

JUL 16 12 33 PM '99

UTAH DIVISION OF  
PUBLIC UTILITIES

In the Matter of the Application of PacifiCorp  
And Scottish Power for an Order Approving  
The Issuance of PacifiCorp Common Stock

DOCKET NO. 98-2035-04  
UTAH DIVISION OF  
PUBLIC UTILITIES

**REBUTTAL TESTIMONY OF ROBERT J. MALONEY, WITNESS 6**

**SERVICE QUALITY AND ADDED VALUE --**

**FOR THE DIVISION OF PUBLIC UTILITIES**

**DEPARTMENT OF COMMERCE**

**STATE OF UTAH**

**July 16, 1999**

1 **INTRODUCTION**

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Q PLEASE STATE YOUR NAME.**

**A** My name is Robert J. Maloney. On June 18, 1999, I provided direct testimony in this proceeding.

**Q WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

**A** This testimony clarifies condition #1 on page 13 of my direct testimony. This testimony also recommends condition #12, a new condition addressing transmission line reliability. (My direct testimony includes eleven service quality conditions.)

**Q WHAT DOES THE ABBREVIATED VERSION OF CONDITION #1, WHICH APPEARS IN EXHIBIT 6.4 ON PAGE 27 OF YOUR DIRECT TESTIMONY STATE?**

**A** The abbreviated version of condition #1 states “ Continuously meet performance standards, provide service guarantees, and do not allow underlying outages to increase above current levels.”

1 Q

**WHAT TWO PROVISIONS DID YOU OMIT IN ABBREVIATING CONDITION #1?**

2

3

In abbreviating condition #1, I omitted the following two requirements:

4

5

1. Please see lines 21 through 23 on page 13 of my direct testimony. These lines state "File tariffs specifying the five network performance standards, two customer service performance standards, and eight guarantees listed in their (ScottishPower's) proposed package."

6

7

8

9

2. Please see lines 4 and 5 on page 14 of my direct testimony. These lines state "Formally agree to update the aforementioned standards and service guarantees during 2004 and each year thereafter."

10

11

12

13

14 Q

**DO YOU RECOMMEND THE COMPANY AGREE TO EACH OF THE TWO  
AFOREMENTIONED PROVISIONS?**

15

16

17 A

Yes. Customers are more likely to benefit if the Company is held accountable for meeting all of its service quality commitments and updating its service quality commitments in 2004 and each year thereafter.

18

19

20

21

22

23

24

25

26

27

1 Q **WHY ARE YOU RECOMMENDING A NEW CONDITION ADDRESSING**  
2 **RELIABILITY OF TRANSMISSION LINES?**

3

4 A Parties in this Docket have described high outage levels on some transmission lines. I therefore  
5 recommend the Company agree to the following, a 12<sup>th</sup> service quality condition (My direct  
6 testimony includes eleven service quality conditions):

7

8 *Through transition planning, PacifiCorp will specify reasonable internal outage targets for*  
9 *transmission lines. Each quarter, the Company will report outages against these targets.*

10

11 *Each quarter, the Company will also report the name, location, and outage results for each*  
12 *transmission line for which it has been cost-prohibitive to reduce the twelve-month rolling*  
13 *average outage rate to targeted levels.*

14

15 The Division can audit and provide recommendations to the Commission if ScottishPower either  
16 does not propose reasonable transmission outage targets or if it is cost-prohibitive to reduce the  
17 twelve-month rolling average outage rate to targeted levels.

18

19

20 Q **DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

21

22 A Yes.

17532

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

UTAH DIVISION OF PUBLIC UTILITIES

EXHIBIT NO. DPU 5.0R

REBUTTAL TESTIMONY OF KENNETH B. POWELL

FOR THE

DIVISION OF PUBLIC UTILITIES

DEPARTMENT OF COMMERCE

STATE OF UTAH

July 16, 1999

RECEIVED  
PUBLIC SERVICE COMMISSION

JUL 16 12 40 PM '99

RECEIVED

1 Q. PLEASE STATE YOUR NAME.

2 A. Kenneth B. Powell

3  
4 Q. HAVE YOU TESTIFIED PREVIOUSLY IN THIS CASE?

5 A. Yes, I have.

6  
7 Q. WHAT IS THE PURPOSE OF THIS REBUTTAL TESTIMONY?

8 A. I am responding to the Direct Testimony of Maurice Brubaker, testifying in behalf of Utah  
9 Industrial Energy Consumers [UIEC], Exhibit No. UIEC-1.0 .

10  
11 Q. TO WHAT PART OF HIS TESTIMONY ARE YOU RESPONDING?

12 A. I am responding to the recommendation that he makes on page 50 of his testimony that  
13 “PacifiCorp be required to renew any existing special contracts that expire during the  
14 five-year rate cap period, at the option of the customer, on terms no less favorable to the  
15 customer than the terms of the current special contracts.”

16  
17 Q. DOES THE DPU OBJECT TO THAT RECOMMENDATION?

18 A. We do. We believe Mr. Brubaker’s recommendation should be rejected for five reasons:

- 19 1. The Utah Public Service Commission [PSC] has previously ordered, in individual  
20 cases for each of the Special Incentive Contracts, that Special Incentive Contracts  
21 not be automatically renewed, but that PC should have to make a new filing  
22 justifying the contracts, for DPU review and PSC consideration. Adopting Mr.  
23 Brubaker’s recommendation invalidates all those previous orders, which were  
24 ordered after intensive investigation, in favor of a policy that has no cost basis.
- 25 2. The PSC has previously ordered the creation of a Task Force to establish the  
26 criteria for approval of Special Incentive Contracts, among other things. An  
27 automatic renewal of those contracts now would make moot the work of that Task  
28 Force. The Task Force recommendations are due in mid-December and this case  
29 may well be decided by then.

1           3.     The earliest of these Special Incentive contracts come up for renewal beginning in  
2                     about two years with other renewals continuing for several years. It is impossible  
3                     to know at this time whether those contracts will meet any present or future  
4                     criteria. It is possible that at least some of those contracts will not be economically  
5                     justifiable at that time, or they may fail to meet other criteria. Adopting Mr.  
6                     Brubaker's recommendation at this time might well result in contracts which  
7                     don't meet present or subsequent cost coverage criteria.

8           4.     As mentioned, the first of these Special Incentive contracts comes up for renewal  
9                     beginning in about two years with others due in subsequent years. These contracts  
10                    typically have a term of five years. Automatically renewing the contracts for a  
11                    like term would extend the benefits of a rate cap to these Special Contract  
12                    customers far beyond the time when the cap expires for other customers.

13          5.     Mr. Brubaker has failed to adequately explain in his testimony any reason why  
14                    approval of this merger should be conditioned on automatic extension of the  
15                    Special Incentive Contracts. Those contracts are currently approved and in place  
16                    and will not be impacted by the merger.

17  
18        Q. WITH REGARD TO YOUR LAST RESPONSE, WHAT JUSTIFICATION DOES MR.  
19                BRUBAKER OFFER FOR THE AUTOMATIC EXTENSION OF THE SPECIAL  
20                INCENTIVE CONTRACTS?

21        A. He had previously recommended a price cap for retail customers. He apparently believes that  
22                automatic extension of the Special Incentive Contracts at present rates is necessary to  
23                effect a price cap for the Special Incentive Contract customers he represents and keep  
24                them at a consistent relationship with other customers.

25  
26        Q. DO YOU AGREE?

27        A. The DPU doesn't agree with his premise, nor with his application of the premise.

28  
29        Q. PLEASE EXPLAIN WHAT YOU MEAN.



1 A. The implied premise is that the Special Incentive Contracts have a consistent relationship  
2 with retail prices as represented by the retail tariffs. No such relationship to retail prices  
3 has ever been a criteria for approval of these contracts. Such a relationship has not been  
4 maintained in the past. Nor has such a relationship has been recommended to the Task  
5 Force on Special Incentive Contracts at this time. Nor would the DPU approve such a  
6 criteria if it were put forth.

7  
8 Q. WHY WOULDN'T YOU APPROVAL SUCH A RELATIONSHIP?

9 A. At present Special Incentive Contract prices are established with a specific relationship to  
10 **costs**. They are expected to cover all incremental costs and make the maximum possible  
11 contribution to fixed costs, considering the price of alternative sources of electricity either  
12 in Utah or other potential locations. Trying to hold, instead, a relationship to retail tariffs  
13 might well invalidate the desired relationship to costs and make the contracts harmful to  
14 other rate payers.

15  
16 Q. IN POINT 4, YOU DISCUSSED THE PROBLEM WITH RENEWING THESE  
17 CONTRACTS FOR A LIKE PERIOD. DOES MR. BRUBAKER SPECIFICALLY  
18 RECOMMEND RENEWING THE CONTRACTS FOR A LIKE PERIOD?

19 A. He does not explicitly recommend that. However, requiring that the contracts will be  
20 renewed "on terms no less favorable to the customer" than the current contract certainly  
21 opens the door implicitly. The length of a contract is a "term" of the contract and a  
22 customer might well decide that a renewed contract would be less favorable if it wasn't in  
23 effect for the same time period as the original contract.

24  
25 Q. IF MR. BRUBAKER OR HIS CLIENT WERE TO AGREE THAT RENEWALS OF  
26 SPECIAL CONTRACTS WOULD BE ONLY FOR THE TERM OF THE PRICE CAP,  
27 IF ANY, WOULD THAT RELIEVE YOUR CONCERN ON THIS POINT?

28 A. On this one point, yes, such an agreement to limit the term of renewal would resolve our  
29 concern. We would still object to contract extension for the other four listed reasons.

1 Q. MR. BRUBAKER ON PAGE 50 SUGGESTS THAT IF THE CONTRACTS ARE NOT  
2 AUTOMATICALLY RENEWED, THEN THE SPECIAL CONTRACT CUSTOMERS  
3 SHOULD BE GIVEN THE OPPORTUNITY TO OBTAIN THEIR POWER  
4 ELSEWHERE. DOES THE DPU AGREE?  
5

6 A. Yes and no. We agree with the concept, but not with Mr. Brubaker's application of it.  
7

8 Q. PLEASE EXPLAIN.

9 A. The "yes" part of my previous answer is based on the existing situation. Existing special  
10 contract customers in Utah had to meet a "but for" test before obtaining their contracts.  
11 By this I mean that PC had to show that if the customer wasn't allowed the lower special  
12 contract rate, the customer would either obtain its power needs elsewhere or eliminate  
13 those needs in some other way. So to that degree, the existing Special Contracts  
14 customers **already** have the opportunity to release themselves from the commitment to  
15 purchase from PC at the expiration of their contracts.  
16

17 Q. IS THIS WHAT MR. BRUBAKER IS REFERRING TO?

18 A. No, apparently Mr. Brubaker wants something more, that which has in recent years come to  
19 be called "retail access." He states, "PacifiCorp should be required to release these  
20 customers from any commitment to purchase electricity competitively on the open market  
21 and to deliver the power to their locations on the PacifiCorp system using FERC-  
22 approved OATTS. PacifiCorp/Scottish Power should not be allowed to refuse renewal of  
23 contracts unless customers have a viable transmission option in the form of an RTO or an  
24 ISO so that the pancaking problem is avoided."  
25

26 Q. DOES THE DPU OBJECT TO THE PSC GRANTING RETAIL ACCESS TO SELECTED  
27 CUSTOMERS IN THIS CASE?

28 A. Yes, we do. That is the "no" part of my earlier answer.  
29

1 Q. WHY DO YOU OBJECT?

2 A. The issues of who should be provided with retail access and when it should be provided are  
3 parts of the far broader issue of utility deregulation. Agreeing to grant retail access to a  
4 select few customers without a thorough investigation of all the issues relating to  
5 deregulation is not just and reasonable. At the same time, hearing all of the potential  
6 deregulation issues in the context of this merger case is not necessary to deciding merger-  
7 related issues and unnecessarily complicates and broadens this case. Moreover, the Utah  
8 Legislature has decided that they will be the decision making body with regard to  
9 restructuring. Attempting to resolve portions of the restructuring issues with the PSC  
10 could be seen as an attempt to bypass the legislature.

11  
12 Q. WHAT DOES THE DPU BELIEVE SHOULD BE DONE TO HELP THE SPECIAL  
13 CONTRACTS CUSTOMERS SHARE IN THE BENEFITS OF A RATE CAP, IF ONE  
14 IS ADOPTED BY THE PSC?

15 A. We believe that nothing more needs to be done. The prices paid by the Special Contracts  
16 customers are already substantially below tariff prices. And those prices are, in effect,  
17 capped for the term of the contract. We would strongly object to any automatic renewals  
18 of these contracts at current prices and terms, without comprehensive review of the cost  
19 justification and other issues. We would also object to the granting of retail access to  
20 these Special Contract customers as a part of the merger case.

21  
22

**SUMMARY OF REBUTTAL TESTIMONY**

Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY FOR US.

A. We believe Mr. Brubaker's recommendation that present Special Contracts be renewed at no less favorable terms, as a condition of merger approval, should be rejected for five reasons:

1. The PSC has previously ordered that Special Incentive Contracts not be automatically renewed, but that PC should make a new filing justifying the contracts, for DPU review and PSC approval. Adopting Mr. Brubaker's recommendation invalidates those previous orders in favor of a policy that has no cost basis.
2. The PSC has previously ordered the creation of a Task Force to establish the criteria for approval of Special Incentive Contracts. An automatic renewal of those contracts now would make moot the work of that Task Force.
3. The earliest contracts come up for renewal in about two years with other renewals continuing for several years. It is impossible to know at this time whether those contracts will meet any present or future criteria, especially cost coverage criteria.
4. As mentioned, the first of these contracts comes up for renewal beginning in about two years with others due in subsequent years. These contracts typically have a term of five years. Automatically renewing the contracts for a like term would extend the benefits of any rate cap to these Special Contract customers far beyond the time when the cap expires for other customers.
5. Mr. Brubaker has failed to adequately explain in his testimony any reason why approval of this merger should be conditioned on automatic extension of the Special Incentive Contracts. Those contracts are currently approved and in place and will not be impacted by the merger.

We also recommend that Mr. Brubaker's alternative recommendation of granting these customers retail access as a condition of the merger is not supportable without a full investigation of the issues involved in utility deregulation. We therefore recommend against the PSC allowing retail access for the Special Contract customers in this merger case. This concludes my rebuttal testimony.



1 Q: Please state your name, occupation and background.

2 A: Blaine A Newman. I am Business Manager/Financial Secretary  
3 for the International Brotherhood of Electrical Workers, Local 57  
4 (Local, herein), located in Salt Lake City, Utah. I have held this  
5 position for about 22 years. Previous to that, I was a journeyman  
6 lineman for Utah Power and Light for approximately 10 years.

7 Q: What are your responsibilities for the Local?

8 A: I manage the affairs of the Local. The Local represents  
9 approximately 1,900 employees of PacifiCorp (Company, herein).  
10 These employees work in commercial and power operations of the  
11 Company. The Local does not represent supervisors and managers.  
12 The Local is interested in obtaining and maintaining jobs and  
13 career advancement for the bargaining unit employees under fair  
14 terms and conditions of employment. In that respect we have  
15 negotiated collective bargaining agreements with the Company.

16 Q: What is your interest in the merger proposal of Applicants  
17 Pacificorp and Scottish Power?

18 A: I am concerned about the welfare, security and safety of  
19 employees of the Company as affected by the merger. I am concerned  
20 about job opportunities and the loss of the same should the merger  
21 be approved without adequate protection benefiting the work force  
22 in Utah.

23 I fear that many good jobs will be lost by reason of the  
24 merger and that remaining employees will continue to experience  
25 more difficult working conditions. If my fears are justified, the  
26 welfare of workers will be damaged. This in turn will adversely  
27 effect the local economy and ratepayers.

1 Q: Do you have evidence to justify your fears?

2 A: Yes. I understand Mr. Alan Richardson has said that job  
3 reductions will be likely as a result of the merger. Page 16 of  
4 his direct testimony. Scottish Power has promised to cut 10  
5 million dollars in costs as a benefit of the merger. However other  
6 figures, reported by Ronald Burrup in testimony filed on behalf of  
7 the Utah State Divisions of Public Utilities, Department of  
8 Commerce (DPU herein), estimate Scottish Power could achieve  
9 savings of 200 million dollars annually, as a result of the merger.  
10 In my experience, costs cuts usually come in the form of fewer  
11 jobs. I believe it is reasonable to fear that Applicants' will cut  
12 more jobs in Utah. That fear apparently is also shared by Kenneth  
13 Powell testifying on behalf of the DPU (page 10, lines 16-20).

14 Utah employees, since the merger with Pacificorp in 1988, have  
15 suffered more proportionately than other states by loss of work.  
16 This is the case despite conditions in the 1988 order to protect  
17 job loss due to the merger and to assure reductions should not  
18 impair the quality of service, maintenance and safety. (1988 order  
19 at Section III G Section L¶14a-e). By the Local's count from bump  
20 sheets, there were 3,069 bargaining unit jobs in February 1988.  
21 This compares to 1,926 in June of 1999. However, jobs in Oregon  
22 have essentially remained level same since at least 1995, according  
23 to the direct testimony of Richard Anderson for Large Utility  
24 Customers (chart at page 23). The chart shows Utah jobs markedly  
25 decreased in the same time period. Yet Utah is the largest source  
26 of electric revenue for the Company. And just last year, many good  
27

1 jobs in Utah were lost due to the merger when the  
2 payroll/accounting department was moved to Oregon.

3 Q: How do fewer jobs hurt the employees of the utility.

4 A: Obviously a lost job deprives an individual of their livelihood  
5 and career opportunities. While workers may be able to find  
6 employment elsewhere, I think it would be difficult to find jobs  
7 with comparable wages, benefits, seniority and other provisions  
8 nearly as good as what the PacifiCorp provides. This is  
9 particularly so in rural communities where much of the work force  
10 is located. Employees must start over, perhaps in new fields.  
11 Loss of a job can be financially and emotionally devastating to the  
12 family and detrimentally impact the community in ways in which the  
13 Commission should take notice.

14 Additionally, job cuts effect employees remaining at work,  
15 requiring them to take on greater responsibilities and work more  
16 hours for the same pay. Employee morale and loyalty is adversely  
17 effected, particularly when there is an ever present threat of job  
18 loss.

19 The Local has reviewed overtime reports posted by the Company  
20 and it is high in certain critical areas. For example at the  
21 Huntington plant, overtime in the maintenance classifications was  
22 on average 10.5 hours per week per man in 1998.

23 On the other hand, lost time due to on the job accidents are  
24 up by 157% in Power Supply operations, based on figures reported by  
25 the Company in the Safety Times (Summer 1999), attached hereto as  
26 Exhibit 1. We feel this is directly related to fewer employees  
27



1 working longer hours, particularly since safety programs exist to  
2 eliminate hazards.

3 Jobs lost, either through reductions in force, attrition or  
4 early retirements (under threat of layoff), also deprive remaining  
5 employees of the ability to advance their careers and train. Under  
6 the labor agreement when permanent positions become vacant, due to  
7 an employee leaving for whatever reason, other employees may bid  
8 for the job. However, the Company routinely has not been filling  
9 these jobs, eliminating opportunities to advance careers, develop  
10 new skills and increase familiarity with Company operations.  
11 Increasingly the Company is becoming more dependant on the skills  
12 of fewer people.

13 Q: Do you believe the merger will benefit the public?

14 A: This is difficult for me to evaluate. However, I do not see  
15 the merger benefiting the employees and this was an important  
16 matter of public concern in the last merger proceeding. I do  
17 believe benefiting the employees of the Company is in the public's  
18 interest and the Commission would be fulfilling its mission by  
19 establishing appropriate conditions to affect such a benefit.

20 Q: Has any party to the proceeding proposed such conditions?

21 A: Not really. The DPU makes certain recommendations to protect  
22 staffing levels but I do not believe they go far enough.

23 Q: How are they insufficient?

24 A: They do not propose job protection as conditions of the merger.  
25 They merely propose recommendations. The DPU offers only  
26 recommendations because it feels it cannot enforce such conditions.

1 This is unsatisfactory. If there is a problem there should be a  
2 meaningful solution.

3 The Local feels that hiring more employees is a clear cut way  
4 to ensure a benefit is realized by reason of the merger. This  
5 would also minimize enforcement problems in monitoring job loss due  
6 to the merger. If jobs are restored, there is a measurable  
7 benefit.

8 The enforcement concern can be eliminated altogether if the  
9 Commission protects all jobs from being cut for an appropriate  
10 period of time. All cutbacks can fairly be attributed to the  
11 merger since they are attributable to Scottish Power. In other  
12 words, but for the merger, there would be no Scottish Power to make  
13 the changes they plan. Pacificorp has already aggressively cut  
14 jobs and plans on turning its business over to Scottish Power.  
15 Further cuts by Scottish Power could only be attributable to the  
16 merger and SP's evaluation of the business plan.

17 The Local was able to reach an understanding with the Company  
18 after the 1988 merger, attributing all job losses for a substantial  
19 period to the merger. By this mechanism, the difficult question of  
20 whether a job loss was merger related or not was avoided and jobs  
21 were protected.

22 Q: What conditions should the Commission should establish?

23 A: What this community needs is more full time regular workers  
24 employed by the utility in permanent positions. The DPU would  
25 allow the work force to decrease by attrition. The Company's  
26 record for service has been brought into question by this  
27 proceeding and other evaluations made for the Commission. In our

1 experience work orders are back logged. For example, the Company  
2 delays routine maintenance at its power plants and schedules  
3 shutdowns farther and farther apart. Then the Company will  
4 bringing in hundreds of out of state employees of Irwin Industries  
5 Inc. of Long Beach California, to overhaul the units. It can take  
6 6-8 weeks to overhaul each unit. The Company has 13 units  
7 altogether. PacifiCorp employees used to travel from unit to unit  
8 doing this work full time in addition to routine maintenance that  
9 minimized the number of forced outages.

10 Utah PacifiCorp employees have suffered more job losses than  
11 other states since the 1988 merger. Good stable jobs benefit the  
12 community and raise living standards for everyone. These economic  
13 benefits increase the number of ratepayers to defray the Company's  
14 cost of service.

15 The Company can best decide where more employees could be  
16 utilized. However, one hundred (100) more employees could easily  
17 be utilized by simply adding one crew member to crafts such as  
18 electricians and mechanics maintaining power plant units or  
19 linemen working on transmission and distribution lines. The  
20 Company could reinstate its construction crew which use to build  
21 and maintain substations. The Company could use its own employees  
22 to do blue staking instead of contractors. The Company could use  
23 its employees exclusively on laying underground cable instead of  
24 forcing them to work alongside contractors doing the same work.  
25 Customer service staff can be increased. I believe the Company  
26 plans to do a good deal of hiring in that area. The mistakes of  
27 the past in eliminating certain rural offices and payroll personnel

1 could be rectified, giving the community the opportunity to deal  
2 with persons familiar to their needs and circumstances. All this  
3 could and should be done if the Company is to make good on its  
4 promise to provide better service as a benefit of the merger.

5 Q: Wouldn't this cost ratepayer more?

6 A: Not necessarily. The Company has this work anyway and has  
7 increasingly utilized subcontractors to do this job. The excessive  
8 use of outside contractors in lieu of a stable, skilled and loyal  
9 work force, is not in the interest of the public for reasons  
10 previously stated. Furthermore this creates problems in the work  
11 place when persons are working side by side for different wages and  
12 benefits with further threats of job loss looming. Employees feel  
13 like the Company is subsidizing these contractors with its  
14 equipment and facilities to do the work the employees were hired  
15 and trained to do, and paying a premium to do so. It makes for a  
16 difficult situation.

17 We note on average at the Huntington Power Plant, based on  
18 the visitors logs and work orders, not a day goes by when there are  
19 on average of about 20 employees of contractors are in the plant  
20 working. See Exhibit 2.

21 While we do not have direct figures on the cost or the extent  
22 of the subcontracting, we believe the Company can furnish this and  
23 will request it. However for rate making purposes it appears these  
24 costs are rolled in with regular employee costs for determining  
25 operating expenses.

26 Q; What specific conditions should the Commission consider  
27 adopting?

1 A: To assure a net benefit as a result of the merger, Applicants  
2 should:

3 1. Hire 100 more employees in Utah. Such a condition would  
4 increase the presence of the Company in Utah and make it more  
5 accountable to the public. It would ameliorate the loss of jobs  
6 since the last merger to the employees who were hit hardest by the  
7 merger. It would provide a measurable benefit to the public that  
8 will translate into better service. I believe the customer is  
9 willing to pay for this.

10 2. After fulfilling condition No.1, maintain such employment  
11 levels for five years, replacing employees that have left such jobs  
12 for any reason.

13 3. At a minimum the employment recommendations of the DPU, by  
14 Kenneth Powell, should be made conditions of the merger with the  
15 following exceptions.

16 a. Instead of two years, the employment conditions  
17 should be in place for five years, consistent with the Company's  
18 promises to provide benefits over that period of time and due to  
19 the fact that its analysis of changes will take so much time to  
20 complete and to fully effectuate cost savings and service  
21 improvements.

22 b. All jobs lost should be considered as a result of the  
23 merger.

24 4. Require the new company to honor the labor contract with  
25 the Local and condition of the merger. This the Company has  
26 already agreed to do with the Local and has so represented to the  
27 Commission.

1 | Q: Does this conclude your testimony?

2 | A; Yes it does.

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

## CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing REBUTTAL TESTIMONY OF BLAINE A. NEWMAN, IBEW LOCAL 57 to be served upon the following persons by mailing a true and correct copy of the same, postage prepaid, to the following on the 16 day of July, 1997.

Edward A. Hunter  
STOEL RIVES LLP  
201 South Main, Suite 1100  
Salt Lake City, UT 84111-4904

Brian W. Burnett  
CALLISTER NEBEKER &  
McCULLOUGH  
Gateway Tower East, Suite 900  
10 East South Temple  
Salt Lake City, UT 84133

Doug Tingey  
Assistant Attorney General  
160 East 300 South, 5<sup>th</sup> Floor  
P. O. Box 140857  
Salt Lake City, UT 84114-0857

Peter J. Mattheis  
Matthew J. Jones  
BRICKFIELD BURCHETTE & RITTS PC  
1025 Thomas Jefferson Street, NW  
800 West Tower  
Washington, DC 20007

Bill Thomas Peters  
David W. Scofield  
PARSONS DAVIES KINGHORN &  
PETERS PC  
185 South State Street, Suite 700  
Salt Lake City, UT 84111

F. Robert Reeder  
William J. Evans  
PARSONS BEHLE & LATIMER  
201 South Main Street  
P. O. Box 45898  
Salt Lake City, UT 84145-0898

Roger O. Tew  
60 South 600 East, Suite 200  
Salt Lake City, UT 84102

Lee R. Brown, Vice President  
Magnesium Corporation of America  
238 North 2200 West  
Salt Lake City, UT 84116

Daniel Moquin  
Assistant Attorney General  
1594 West North Temple, Suite 300  
Salt Lake City, UT 84116

Gary A. Dodge  
PARR WADDOUPS BROWN GEE &  
LOVELESS  
185 South State Street, Suite 1300  
Salt Lake City, UT 84111-1536

Eric Blank  
Law Fund Energy Project  
2260 Baseline Rd., Suite 200  
Boulder, CO 80302

Matthew F. McNulty III  
VAN COTT BAGLEY CORNWALL &  
McCARTHY  
50 South Main Street, Suite 1600  
P. O. Box 45340  
Salt Lake City, UT 84145

Steven W. Allred  
Salt Lake City Law Department  
451 South State, Suite 505  
Salt Lake City, UT 84111

Paul T. Morris  
3600 Constitution Blvd.  
West Valley City, UT 84119

Stephen R. Randle  
RANDLE DEAMER ZARR ROMRELL &  
LEE PC  
139 East South Temple, Suite 330  
Salt Lake City, UT 84111-1004

David F. Crabtree  
Deseret Generation & Transmission  
Co-Operative  
5295 South 300 West, Suite 500  
Murray, UT 84107

Dr. Charles E. Johnson  
The Three Parties  
1338 Foothill Blvd., Suite 134  
Salt Lake City, UT 84108

Michael Ginsberg, Asst. Atty. General  
Division of Public Utilities  
Jan Graham, Attorney General  
P. O. Box 140857  
Salt Lake City, UT 84114-0857

  
\_\_\_\_\_



# SAFETY

**PACIFICORP**

*Times*

SAFETY NEWS AND TIPS AT PACIFICORP

SUMMER 1999

## Company increases emphasis on safety

It's OK to have problems, as long as they're not the same ones you had last year.

That's the attitude at PacifiCorp these days regarding safety.

The number of lost-time accidents increased in 1998, so people everywhere are working diligently to make sure that number drops in 1999. *Safety Times* talked with two groups about their efforts.

### Power supply

"We've increased our focus on safety as a management team," says Barry Cunningham, vice president, Salt Lake City. Cunningham says Power Supply saw lost-time accidents increase to 18 in 1998 compared to seven in 1997.

"The management team has targeted four areas to work on," he says. "First, we must manage the work environment to make sure it's a safe place to work. Then, promote safe work behaviors, learn from every incident and hold ourselves accountable."

A part of that accountability, is reviewing all lost-time accidents, serious recordables and near misses. Each are reviewed at twice-monthly meetings of plant managers and safety topics are discussed.

Like all Power Supply facilities, Huntington Canyon Plant is placing more emphasis on safety. "A lot of people thought safety belonged to me or to management," says Dennis Madsen, safety training administrator. "So we've educated employees on the safety policies and procedures, and the importance of timely reporting."

All plant managers are doing walk downs at the plants, often including safety committee members. "Each week we announce where we will be in the plant, and union and man-

agement employees show up," says Ray Rossi, plant managing director. "We think it's good to involve more people in walk downs to pinpoint hazardous areas."

Safety meetings continue to be important, although plants may organize them differently. "We have monthly crew meetings, but we've also introduced an all-employee meeting quarterly," says Bob Arambel, plant managing director, Jim Bridger. "We get good cross-departmental exchange of information in the quarterly meetings."

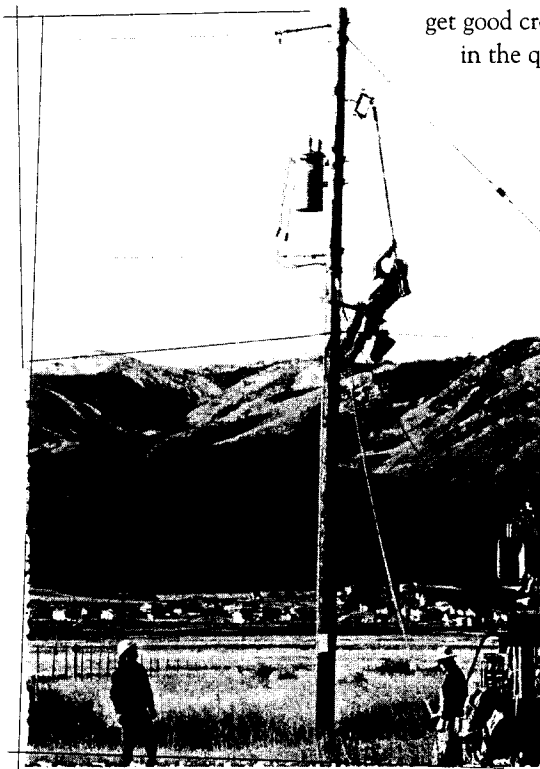
The plant has also set up four safety centers that carry safety information, statistics, hot safety topics from other locations and even other industries.

Some plants are revising safety incentive programs as well. "Safety is part of Huntington's goals," Rossi says. "We also give people points for not having a lost-time or recordable accident. They can earn up to \$150, by doing other things related to safety as well."

Likewise, Hydro Resources is now targeting recordable accidents rather than lost-time accidents. "We wanted a goal that would likely provide incentive throughout the year," says Randy Landolt, managing director Hydro Resources. "Our goal is to improve on our five-year average and so far this year, we're on target."

Historically, Hydro Resources had been assessing accidents by body parts injured. "We've begun analyzing the data and found that back and finger injuries are the most frequent types of accidents," Landolt says.

The group recently borrowed an idea from DuPont Corporation. The program uses a wallet-size flash card, which an



*Following an increase in the number of lost-time accidents last year, all areas of the company have stepped up their emphasis on safety.*

*Continued on page 3*

# Bridger Coal nabs safety honors

Last year Bridger Coal Company achieved the lowest accident incident rate in its 25-year history.

"The credit belongs to the involvement of the employees of Bridger Coal," says Patrick James, mine safety manager. "We have a well-educated work force in reference to safety and a strong safety culture."

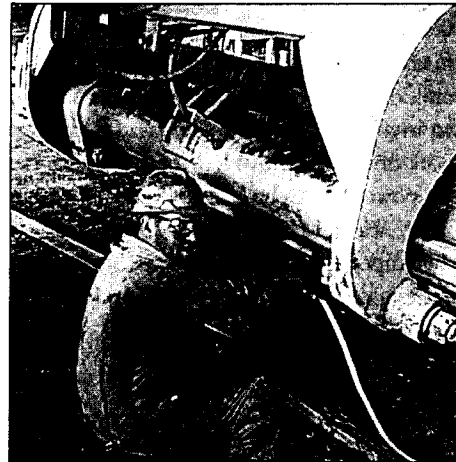
James says the mine will receive a third place award from the Wyoming/Montana Safety Council, a branch of the National Safety Council. The third place finish is in the category for lowest incident rate for operations with more than 500,000 employee hours worked. The council is also awarding the mine with a silver award for its overall safety program.

Topping those two awards, James expects Bridger Mine will be recognized by the Mine Safety and Health Administration (MSHA), which annually issues summary safety rankings of the largest 25 mining operations in the country. "The finals won't come out until this month, but preliminary reports rank Bridger as number one in the nation," James says.

Bridger Coal's safety program is designed around involving employees, according to James. "We have an active safety team that reviews safety rules, audits operations and identifies safety concerns," he says. He also credits a training task force that

develops and monitors employee development programs.

"We have a fairly basic safety program including recognition, employee involvement, compliance audits and industrial hygiene," he says. "But the real secret is we have employees involved in those. Everyone shares the same responsibility for safety." **ST**



*Bridger Coal's safety program is designed around involving employees such as Glenn Troester Jr., journeyman mechanic, who changes the cutting edges on a motor grader.*

*Continued from page 1*

employee can hand to a fellow worker when he or she sees the person doing something unsafe. "We'll be watching how willing people will be to use these," Landolt says. "This isn't about ratching on a co-worker, but about caring enough to have a work environment that is safe for you and your co-workers."

Ernie Wilson, lead/senior Power Supply safety administrator, Salt Lake City, says his group is revamping the review program. "We now look at compliance issues and programs together," he says. "We'll do our first review in August at Dave Johnston Plant and the Hydro North area."

## Customer operations

"We're stressing that guys use test equipment and then ground the line before getting on it," says Gene Morris, distribution and transmission director, Yakima, Wash. "We have excellent employees but, like all people, sometimes your mind is elsewhere and you skip a step."

Another change begun last year is having journeymen add safety coordinator responsibilities to their duties in some locations. "You've got peers talking to peers regarding safety," says Steve Harkin, lead/senior safety administrator, Portland. "I think it's been a good change."

Employee safety committees have always been a strong component of the safety program. However, some are more effective than others. "We are focusing on helping safety committees work better with employees and management to

constantly improve safety and remove hazards in the workplace," says Alan Bezzant, customer operations safety director, American Fork, Utah.

Harkin is also making available more localized information to supervisors and safety coordinators. "We provided a lot of statistics, but we didn't have the ability for supervisors to look at specific information for their areas," he says. "Now they can present the information a number of ways to really see how they're doing locally."

Another way to identify hazards in the workplace is through a safety audit of facilities. The Customer Operations Safety Department is designing a self-audit that will be available soon. "We will do some audits, but do not have the staff to do them all," says Bezzant. "The program allows safety committees to do their own audits to identify any safety hazards."

Communicating safety information remains important in Customer Operations. "We want managers and supervisors to get out and do small group meetings in an informal atmosphere," says Morris. "Safety should be discussed often and not just at a formal safety meeting."

Despite these changes, working safely still rests to the greatest extent with the individual. "Every employee can strengthen his or her individual commitment to safety," says Bezzant. "We – the employees of PacifiCorp – must make a commitment to safety that will create an injury-free workplace." **ST**

# EXHIBIT 2

## CONTRACTORS ON-SITE FOR DECEMBER 1998

### Huntington Canyon Plant

	31 <sup>st</sup>	30 <sup>th</sup>	29 <sup>th</sup>	28 <sup>th</sup>	24 <sup>th</sup>	23 <sup>rd</sup>	22 <sup>nd</sup>	21 <sup>st</sup>	18 <sup>th</sup>	17 <sup>th</sup>	16 <sup>th</sup>	15 <sup>th</sup>	14 <sup>th</sup>	11 <sup>th</sup>	10 <sup>th</sup>	9 <sup>th</sup>	8 <sup>th</sup>	Total
ABB															1			1
Ashworth	6	5	6	5		3	6	5		7	5			6	6	5	6	71
Bailey										1	1			2	2	2		8
Blast n Vac	2	2	2	4			2	2		11	2			2	2	2	2	35
Clarks Roofing															2		4	6
Culligan				2														2
Devoqe	1	2	2	2		2	2			2	2				2	2	2	21
Firetrol											2			2				4
G.E.										4								4
Hersser Inst.														1				1
IPC	4	7	5	6		3	3	2		6	5			7	10	5	8	71
M.P.		1								1								2
Nielson's	2	2	5	2				2		2	3					3	2	23
Thermal West		1	1	1		1		1						1		1	1	8
Wheeler		1		1														2
<b>TOTAL</b>	<b>15</b>	<b>21</b>	<b>21</b>	<b>23</b>	<b>0</b>	<b>9</b>	<b>13</b>	<b>12</b>	<b>0</b>	<b>34</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>21</b>	<b>25</b>	<b>20</b>	<b>25</b>	<b>259</b>

Source - UOL visitors log.

CONTRACTORS ON-SITE FOR JANUARY 1999

Huntington Canyon Plant

	29	28	27	26	25	22	21	19	18	15 <sup>th</sup>	14 <sup>th</sup>	13 <sup>th</sup>	12 <sup>th</sup>	11 <sup>th</sup>	8 <sup>th</sup>	7 <sup>th</sup>	6 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	Total
Ashworth	6	5				5	6	6		6	5	5	6			6	6		4	66
Devoqe		2					2	2			2	2				2	2		2	16
IPC	4	4				3	7	7		8	8	10	14			3	3		3	74
Blast n Vac	2	7				4	4	4		7	7		12			2	2		2	53
Nielson's																			2	2
Thermal West	1	1				1					1	1	1			1	1			8
M&P						1										1				2
Culligan																2				2
Bailey											1									1
ABB		1																		1
Bentley-New	3																			3
TOTAL	16	20	0	0	0	14	19	19	0	21	24	18	33	0	0	17	14	0	13	228

CONTRACTORS ON-SITE FOR FEBRUARY 1999

Huntington Canyon Plant

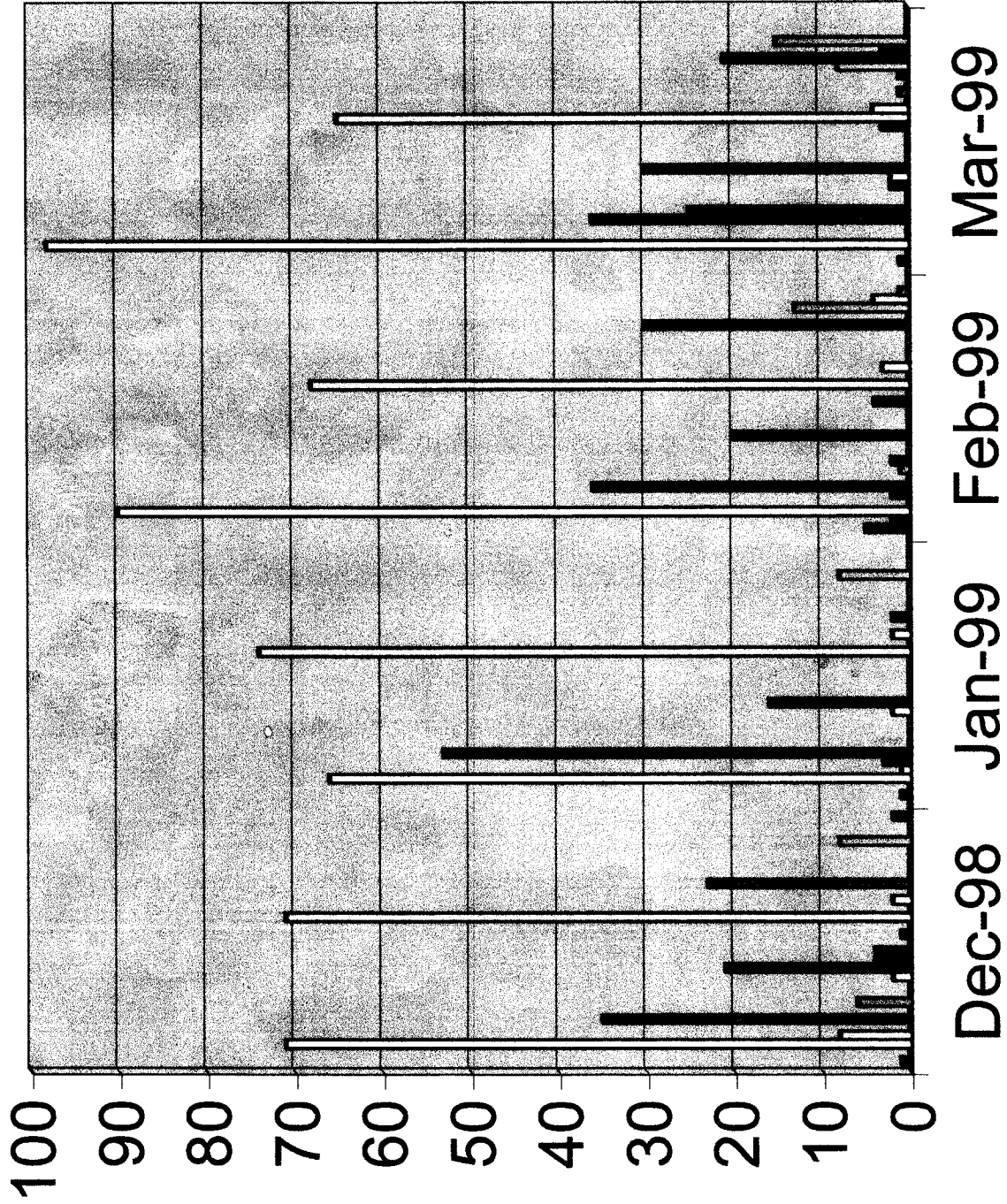
	26	25	24	23	22	19	18	17	16	15 <sup>th</sup>	12 <sup>th</sup>	11 <sup>th</sup>	10 <sup>th</sup>	9 <sup>th</sup>	8 <sup>th</sup>	5 <sup>th</sup>	4	3	2 <sup>nd</sup>	1 <sup>st</sup>	Total	
Ashworth	7	5	5	5	4	7	7	5	6	5	6	6	5		5	6			5	1	90	
Devoqe		2	2	2	2			2	2	2		2	2		2						20	
IPC					5	4	4	7	5	5	8	7	7		5	4			4	3	68	
Blast n Vac	2	2	2	2	2	2	2	2	2	2	2	2	2		2	4			2	2	36	
Thermal West	1	1		1	1	1	1	1	1	1	1	1	1							1	13	
M&P	1					1	1														3	
Vulcan															2						2	
Bailey																					0	
ABB									1	1		1				2					5	
Stilsons	5	?	?	?	?	5	5	5	5	5											30	
Clarks Roofing								1													1	
UFRA						2	2														4	
CTE					2																2	
Alimak			1	1																	2	
Hesco			2	2																	4	
Bentley-New				2																	2	
TOTAL	16	10	12	15	16	22	22	23	22	21	17	19	17	0	16	16	0	0	0	12	6	282

CONTRACTORS ON-SITE FOR MARCH 1999

Huntington Canyon Plant

	31	30	29	28	26	25	24	23	22	19	18	17	16	15 <sup>th</sup>	12 <sup>th</sup>	11 <sup>th</sup>	10	9 <sup>th</sup>	8 <sup>th</sup>	5 <sup>th</sup>	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	1 <sup>st</sup>	Total
Ashworth				6	6	5	6	5	5	6	6	5		5	5	6	5	5	5	6		6	6	4	98
Devoqe				2	2	2	2	2	2		2	2		2		2	2	2	2			2	2	2	30
IPC				2	2	2	2	2	3	7	4	6		7	7	7	6	5	3				2		65
Blast n Vac				2	2	2	2	2	2	2	2	2		2	2	2	2	2	2	4		2	2		36
Thermal West				1	1	1	1	1	1	1	1	1		1	1		1	1	1	1			1		15
Culligan						2																			2
ABB				1																					1
Stilsons				2						3		?		?		3		?		4		2	2	5	21
CTR									2																2
CCI					4	4	4	4	4	5	4														25
Mont Elev								1																	1
Industrial Prod								1										2							3
Sulzer Pump																		2				1			3
SLG Enter				3	3															2					8
Quality Testing																							1		1
IRH											3	1													4
TOTAL			0	19	20	18	19	19	19	24	22	17	0	17	15	20	16	19	13	17	0	13	16	11	315

- ABB
- Alimak
- Ashworth
- Bailey
- Bentley Nev
- Blast N Vac
- CCI
- Clarks Roofing
- CTE
- CTR
- Culligan
- Devoge
- Firetrol
- G.E.
- Hersser
- Hesco
- Ind. Prod.
- IPC
- IRH
- M&P
- Mont. Elev.
- Nielson's
- Quality Testing
- SLG
- Stilsons
- Sulzer
- Thermal West
- UFRA
- Vulcan
- Wheeler



Dec-98    Jan-99    Feb-99    Mar-99

17523

RECEIVED

JUL 19 9 13 AM '90

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH  
PUBLIC SERVICE COMMISSION

\* \* \*

In the matter of the Application of	)	
PacifiCorp and ScottishPower plc	)	Docket No. 98-2035-04
for an Order Approving the Issuance	)	
of PacifiCorp Common Stock	)	

REBUTTAL TESTIMONY OF  
JOHN NIELSEN

ON BEHALF OF

THE LAND AND WATER FUND OF THE ROCKIES

July 16, 1999



1 **I. INTRODUCTION**

2

3 **Q. Please state your name and address.**

4 A. My name is John Nielsen. I work at 2260 Baseline Road, Suite 200, Boulder, CO, 80302.

5

6 **Q. By whom are you employed and in what capacity?**

7 A. I am employed by the Land and Water Fund of the Rockies (LAW Fund) as a Senior Policy  
8 Advisor.

9

10 **Q. Are you the same John Nielsen who has previously submitted testimony in this  
11 proceeding?**

12 A. Yes.

13

14 **Q. What is the purpose of this testimony?**

15 A. The purpose is to respond to the testimony submitted by several of the intervening parties  
16 as it relates to ScottishPower's renewable energy commitments — in particular, the  
17 testimonies of Mr. Kenneth Powell on behalf of the Division of Public Utilities (DPU), Mr.  
18 Daniel Gimble on behalf of the Committee for Consumer Services (Committee), Dr.  
19 Dennis Goins on behalf of Nucor Steel and Dr. Richard Anderson of behalf of the Large  
20 Customer Group.

21

22 **Q. How is your testimony organized?**

23 A. I first address what I believe to be the core concern raised by the intervenors regarding  
24 ScottishPower's renewable energy commitments, which is that customers may end up  
25 paying for a set of renewable resources that have not been shown to be appropriate or cost-  
26 effective through the resource planning process.

27 I then briefly address a number of relatively minor issues in the testimony of the  
28 intervenors including:

29 1) statements by Mr. Powell regarding the higher costs of renewable energy and  
30 the willingness of Utah customers to pay higher rates to support renewable  
31 energy;

- 1           2) the view of Mr. Gimble and Dr. Goins that ScottishPower's renewable energy  
2           commitment should not be considered a merger benefit because there is no  
3           reason that PacifiCorp, as a stand-alone company, could not invest in renewable  
4           resources; and
- 5           3) Mr. Gimble's position that it is premature for ScottishPower to commit to filing  
6           a green resource tariff given that the Commission's Energy Efficiency and  
7           Renewable Energy Task Force is currently studying green pricing.

8

9   **II.    RESPONSE TO INTERVENORS' CORE CONCERN**

10

11   **Q.    You mentioned the intervenors' core concern that customers may have to pay for**  
12   **renewable resources that have not yet been demonstrated to be appropriate or cost-**  
13   **effective through the resource planning process. Does the LAW Fund have any**  
14   **recommendations for addressing this concern?**

15    A.    Yes. Given the uncertainties that currently exist, the LAW Fund recommends that  
16    ScottishPower and PacifiCorp (and their shareholders) bear the burden of demonstrating  
17    that the renewable resource commitments, and the associated investments, are both cost-  
18    effective and prudent. More specifically, we recommend that nothing in this proceeding be  
19    construed to provide ScottishPower or PacifiCorp with a finding of prudence in regard to  
20    these renewable resource commitments prior to a future rate case. Rather, when  
21    PacifiCorp or ScottishPower seek to include these renewable resource costs in rates in the  
22    future, they must demonstrate at that time that these costs have been prudently incurred.

23

24   **Q.    Do you believe that this recommendation addresses the concerns of the intervenors?**

25    A.    It should. If adopted, this recommendation would ensure that customers would not be  
26    required to bear the costs of these renewable resource investments until ScottishPower and  
27    PacifiCorp demonstrated that they were prudent in the context of a future rate case. Of  
28    course, the analysis and results from any prior resource planning process would be  
29    important evidence in this rate case prudence determination.

1 Q. **Is this recommendation acceptable to PacifiCorp and ScottishPower?**

2 A. My understanding is that this recommendation is acceptable to the Applicants.

3

4 Q. **Would you agree that the RAMPP process should be used to evaluate and select the**  
5 **renewable energy resources acquired by ScottishPower?**

6 A. Yes. In addition to providing critical evidence for a prudency determination, the RAMPP  
7 process should be used to help evaluate and select the renewable resources to ensure that  
8 they provide the most benefit to PacifiCorp's customers (see, e.g., Nielsen Direct, page 5,  
9 lines 19-21). The RAMPP process is designed to evaluate all resources on a consistent and  
10 comparable basis across a variety of criteria, including cost, environmental impacts and  
11 risk diversification benefits. Thus, the RAMPP process is one appropriate forum to  
12 evaluate the costs and benefits of the renewable resource acquisition.

13 However, as retail competition expands in PacifiCorp's service territory — for  
14 example, the Oregon legislature appears poised to enact a comprehensive industry  
15 restructuring bill — my sense is that the resource planning process will likely need to  
16 change. As a result, I would suggest that some flexibility be retained about the processes  
17 that are used to evaluate and select the renewable resources and provide evidence for a  
18 future prudency determination.

19

20 **III. OTHER ISSUES**

21

22 Q. **You also wanted to address several points made by DPU witness Powell regarding the**  
23 **higher costs of renewable energy and the willingness of Utah customers to pay higher**  
24 **electric rates to support ScottishPower's 50 MW renewable energy commitment.**

25 **What is Mr. Powell's testimony on these topics?**

26 A. In his testimony Mr. Powell states that PacifiCorp's "...IRPs have consistently indicated  
27 that renewable power production is quite a bit more expensive than the least cost type of  
28 power production." He goes on to say that the DPU does not believe "that Utah ratepayers  
29 are interested in paying higher rates to get more renewable power in the production mix"  
30 (Powell Direct, page 4, lines 21-22).

31

1 Q. **Isn't Mr. Powell's first statement that renewable resources are more expensive than**  
2 **conventionally resources true?**

3 A. In general, it is true that for many utility scale applications, electricity generated from  
4 renewable resources such as wind, geothermal and solar is currently more expensive than  
5 electricity from conventional resources, when evaluated on a purely financial basis.  
6 However, it is also true that renewable energy tends to offer other benefits such as  
7 increased resource diversity, fewer environmental impacts, and benefits to the utility of  
8 gaining experience with renewable energy technologies. These broader renewable energy  
9 benefits are often not accounted for when comparing the costs of renewable-generated  
10 electricity with electricity generated from conventional resources, and are not reflected in  
11 DPU Exhibit 5.2 which Mr. Powell uses to support his statement that renewable resources  
12 cost more than conventional resources.

13 Also, in certain situations, renewable energy can in fact be the most cost-effective  
14 resource option, even when its broader social benefits are not taken into account. At one  
15 point in his testimony, Mr. Powell refers to the costs of solar energy as being "beyond all  
16 reason" (Powell Direct, page 4. Lines 9-10). It is important to point out that, in certain,  
17 off-grid applications where new transmission and distribution lines would be needed to  
18 bring in electricity, solar photovoltaic panels are in many cases the most cost-effective  
19 resource. Moreover, solar resources tend to generate during peak-demand periods, when  
20 the value of electricity is highest. This peak-load following characteristic is a benefit that  
21 should be accounted for in valuing solar resources.

22  
23 Q. **Mr. Powell's testimony is that the DPU does not believe that Utah ratepayers are**  
24 **interested in paying higher rates to support ScottishPower's commitment to add 50**  
25 **MW of renewable energy to the PacifiCorp ratebase. Do you agree with the DPU?**

26 A. I don't think there is anywhere near enough evidence on this record to resolve this  
27 question. As an indicator of customer preferences toward renewable energy, Mr. Powell  
28 cites a recent PacifiCorp customer survey. However, a number of the survey questions he  
29 cites (Powell Direct, page 4, lines 21-26 and page 5, lines 1-12) seem designed to reveal  
30 customer preferences about voluntary green pricing programs and not customer preferences  
31 for ratebasing renewable resources. Moreover, a ratebase commitment of 50 MW would

1 result in a very small rate impact, far smaller than the premiums discussed with customers  
2 in the survey. Thus, I do not believe the survey provides compelling evidence about  
3 customer willingness to include more renewable resources in the ratebase. In any event, I  
4 do not believe that this issue needs to be resolved in this case if the Commission adopts a  
5 policy (as described above) of requiring PacifiCorp and ScottishPower to demonstrate the  
6 prudence of the renewable resource investments in a subsequent rate case.

7  
8 **Q. Are there other issues you want to address?**

9 **A.** Yes. I want to address a point made by Committee witness Gimble and Nucor Steel  
10 witness Goins that ScottishPower's 50 MW renewable energy commitment should not be  
11 considered a merger benefit because there is no reason that PacifiCorp, as a stand-alone  
12 company, could not invest in renewable resources that are shown to be cost-effective.  
13 (Gimble Direct page 26, lines 4-7, Goins Direct page 14, lines 14-16).

14  
15 **Q. Do you agree that the investments in renewable energy and the benefits these  
16 investments offer could be made by PacifiCorp as a stand-alone company?**

17 **A.** Not really. The LAW Fund's experience, during the six to twelve months immediately  
18 prior to the merger, was that PacifiCorp lacked direction and leadership. I think the  
19 company's principal objective at the current time is to find new ownership and  
20 management. If the merger with ScottishPower does not go through, I think the next step  
21 for the company will be to search for another merger partner and that a period of paralysis  
22 will follow until new leadership is found. As a result, until new ownership is found,  
23 PacifiCorp will likely be extremely cautious about moving forward on important  
24 environmental (and other) programs that will provide benefits to Utah customers.

25  
26 **Q. Are there any final areas in the intervenor testimony you would like to respond to?**

27 **A.** Yes. I would like to respond to Committee witness Gimble's testimony regarding  
28 ScottishPower's commitment to file a green pricing tariff.

1 Q. **What is Mr. Gimble's position on the green pricing commitment?**

2 A. In his testimony, Mr. Gimble states that a Commission sponsored task force has been set up  
3 to study a number of environmental issues, including green pricing. He believes it is  
4 premature for ScottishPower to commit to implementing a green pricing program until the  
5 task force submits its report to the Commission (Gimble Direct, page 26, lines 16-21).

6  
7 Q. **Do you agree with Mr. Gimble?**

8 A. I agree that the Energy Efficiency and Renewable Energy Task Force is studying green  
9 pricing, but I do not agree that it is premature for ScottishPower to commit to file a green  
10 resource tariff. For the reasons cited in my direct testimony (Nielsen Direct, page 6, lines  
11 1-22), I believe a green pricing program makes sense for Utah and the sooner a well-  
12 designed program is in place the better. From my perspective, the most productive role of  
13 the task force with respect to green pricing, is not to discuss whether to implement a green  
14 pricing program, but instead to provide inputs to ScottishPower and PacifiCorp to help  
15 design the program so that it provides maximum benefits to Utah.

16  
17 Q. **Does this conclude your testimony?**

18 A. Yes.

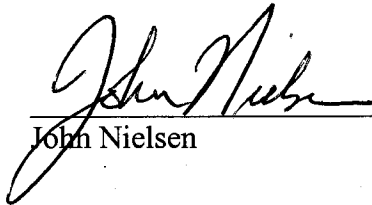
BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF UTAH

\* \* \*

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

AFFIDAVIT OF JOHN NIELSEN

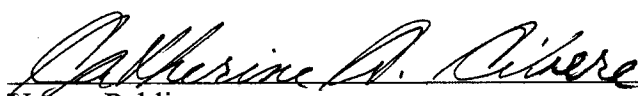
COMES NOW the Affiant, John Nielsen, of proper age and duly sworn, and states that the attached Testimony and Exhibits were prepared by him or under his supervision and control, and that the facts asserted in the foregoing Testimony are true and correct to the best of his knowledge and belief and would be the same if given orally under oath.

  
\_\_\_\_\_  
John Nielsen

STATE OF COLORADO    )  
                                          ) ss.  
COUNTY OF BOULDER    )

SUBSCRIBED AND SWORN to before me this 15<sup>th</sup> day of July 1999,  
by John Nielsen. Witness my hand and official seal.

My commission expires: 10/30/2001

  
\_\_\_\_\_  
Notary Public

## CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of July, 1999, the original and 15 copies of the REBUTTAL TESTIMONY OF JOHN NIELSEN ON BEHALF OF THE LAND AND WATER FUND OF THE ROCKIES were sent via Federal Express to Stephen F. Mecham, Chairman, Public Service Commission of Utah, 160 East 300 South, Salt Lake City, Utah 84145, an electronic copy was emailed to the Commission, and a true and correct copy was sent by U.S. mail, first-class and postage prepaid, to the following persons:

Anne E. Eakin  
Vice President, Regulation  
PacifiCorp  
825 NE Multnomah St.  
Portland OR 97332

Lawrence H. Reichman  
Perkins Cole LLP  
1211 SW 5th Ave. #1500  
Portland OR 97204-3715

Robert Green  
Scottish Power  
121 SW Morrison #1800  
Portland OR 97204

Dave Blackwell  
Emery County Attorney  
PO Box 249  
Castle Dale UT 84513

Curtis Broadbent  
Controller  
Nucor Steel  
PO Box 100  
Plymouth UT 84330

F. Robert Reeder  
William J. Evans  
Parsons Behle & Latimer  
201 S. Main St. #1800  
PO Box 45898  
Salt Lake City UT 84145-0898

Matthew F. McNulty III  
Van Cott, Bagley, Cornwall & McCarthy  
50 S. Main St. #1600  
PO Box 45340  
Salt Lake City UT 84145

Doug Larson  
Director, Regulatory Policy  
PacifiCorp  
One Utah Center #2200  
201 S. Main  
Salt Lake City UT 84140-2000

Brian W. Burnett  
Callister Nebeker & McCullough  
10 East South Temple #800  
Salt Lake City UT 84133

Douglas O. Hunter  
General Manager  
UAMPS  
2825 E. Cottonwood Pkwy #200  
Salt Lake City UT 84121

Paul T. Morris  
3600 Constitution Blvd.  
West Valley City UT 84119

Lee R. Brown  
V.P. Contracts, Human Resources  
Public & Government Affairs  
238 North 2200 West  
Salt Lake City UT 84116

Daniel Moquin  
Asst. Attorney General  
1594 West North Temple #300  
Salt Lake City UT 84116

Brian L. Farr  
Asst. Attorney General  
160 East 300 South  
PO Box 140857  
Salt Lake City UT 84114-0857



Gary A. Dodge  
Parr Waddoups Brown Gee & Loveless  
185 S. State St. #1300  
Salt Lake City UT 84111-1536

Steven Allred  
Salt Lake City Corp. Law Dept.  
451 S. State St. #505  
Salt Lake City UT 84111

Michael Ginsberg  
Asst. Attorney General  
Utah Division of Public Utilities  
160 East 300 South, 5th Floor  
Salt Lake City UT 84111

Jim Matheson  
Dr. Robert Malko  
The Matheson Group  
466 East 500 South #200  
Salt Lake City UT 84111

Dr. Charles E. Johnson  
The Three Parties  
1338 Foothill Blvd. #134  
Salt Lake City UT 84108

E. A. Prawitt  
Utah Association of Counties  
5397 S. Vine St.  
Salt Lake City UT 84107

Rick Anderson  
Energy Strategies, Inc.  
39 Market St. #200  
Salt Lake City UT 84101

Peter J. Mattheis  
Dean S. Brockbank  
Brickfield, Burchette & Ritts, P.C.  
1025 Thomas Jefferson St. NW  
800 West Tower  
Washington DC 20007

Stephen R. Randle  
Thomas M. Zarr  
Randle, Deamer, Zarr, Romrell & Lee, P.C.  
139 East South Temple #330  
Salt Lake City UT 84111-1004

Glen E. Davies  
Bill Thomas Peters  
Parsons, Davies, Kinghorn & Peters  
185 S. State St. #700  
Salt Lake City UT 84111

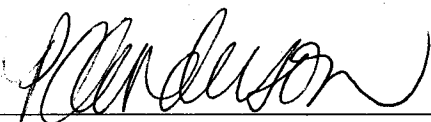
Edward A. Hunter  
Stoel Rives  
201 S. Main St. #1100  
Salt Lake City UT 84111

Doug Tingey  
Asst. Attorney General  
Committee of Consumer Services  
160 East 300 South, 5th Floor  
Salt Lake City UT 84111

David F. Crabtree  
Deseret Generation & Transmission Co.  
5295 South 300 West #500  
Murray UT 84107

Roger O. Tew  
60 South 600 East #200  
Salt Lake City UT 84102

Betsy Wolf  
Salt Lake Community Action Program  
764 South 200 West  
Salt Lake City UT 84101



---