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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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

Docket No. 98-2035-04

DIRECT TESTIMONY

OF

J. ROBERT MALKO

ON BEHALF OF EMERY COUNTY

RECEIVED
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PUBLIC SERVICE COMMISSION

June 9, 1999

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2 **DIRECT TESTIMONY OF J. ROBERT MALKO**
3

4 **I. INTRODUCTION AND WITNESS QUALIFICATION**

5
6 Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS ADDRESS.

7 A. My name is J. Robert Malko. I am a Professor of Finance for the College of
8 Business at Utah State University located in Logan, Utah. My business consulting
9 address is 245 North Alta Street, Salt Lake City, Utah 84103.

10
11 Q. WOULD YOU PLEASE DESCRIBE YOUR QUALIFICATIONS?

12 A. Yes. I received my Bachelor's degree, cum laude, in economics and mathematics
13 from Loyola College in Baltimore, Maryland. I received my Master's and
14 Doctorate degrees in economics from the Krannert Graduate School of
15 Management at Purdue University on Lafayette, Indiana. I have taken graduate
16 courses in business finance at the University of Wisconsin at Madison and
17 accounting courses at Illinois State University in Normal, Illinois. I was also a
18 Visiting Scholar in industrial engineering at Stanford University in Palo Alto,
19 California.

20
21 At Utah State University, I teach the following undergraduate level and graduate
22 level courses: Principles of Corporate Finance, Investments, Case Studies in
23 Finance, and Managerial Economics. Besides my current position with Utah

1 State University, I have been on the faculties at Illinois Wesleyan University and
2 Illinois State University. I have also presented guest lectures concerning energy
3 utility issues at the University of Wisconsin at Madison, Stanford University,
4 Michigan State University, University of California-Berkeley, and University of
5 Utah.

6
7 I served during the period, 1975-1977, as the Chief Economist for the Public
8 Service Commission of Wisconsin (PSCW). During this time, I also serves as
9 Chair and Vice Chair of the National Association of Regulatory Utility
10 Commissioners (NARUC) Staff Subcommittee on Economics. From 1977 to
11 1981, I was Project Manager and then Program Manager for the Electric Utility
12 Rate Design Study. This study was prepared for NARUC and housed at the
13 Electric Power Research Institute (EPRI) in Palo Alto, California. From 1981 to
14 1986, I returned to the position of Chief Economist with the PSCW. In 1981-
15 1982, I was the Senior Staff Advisor to the NARUC Ad Hoc Committee in
16 Utility Diversification. I assisted the committee in the preparation and publication
17 of its "Final Report" in 1982. I also served as the Vice Chair of the NARUC Staff
18 Subcommittee on Economics and Finance during the time period, 1981-1986.

19
20 I have written or co-authored approximately 150 articles on energy utility
21 economic and finance issues. During 1994 and 1995, I co-edited two books
22 entitled Electric Utilities Moving Into the 21st Century and Reinventing Electric
23 Utility Regulation published by Public Utilities Reports, Inc. During 1999, I

1 co-edited another book entitled Customer Choice: Finding Value In Retail Electricity
2 Markets, published by Public Utilities Reports, Inc. I have also address several
3 national conferences. I am a member of the American Finance Association, the
4 American Economic Association, the Financial Management Association, and the
5 Council on Economic Regulation. I am a past President of the Society of Utility and
6 Regulatory Financial Analysts (SURFA), and I serve on its Advisory Council. I am a
7 past Chair of the Transportation and Public Utilities Group of the American
8 Economic Association, and I have served on its Executive Committee. I am a
9 member of the Advisory Council of the Center for Public Utilities at New Mexico
10 State University, and I serve on the board of Directors at the National Regulatory
11 Research Institute (NRRI), located at Ohio State University.

12
13 I have testified on behalf of state regulatory commissions, state offices of consumer
14 counsel, energy utilities, and customer groups before the following regulatory
15 agencies: the Arizona Corporation Commission, the Connecticut Public Utilities
16 Control Authority, the Federal Energy Regulatory Commission, the Hawaii Public
17 Utilities Commission, the Illinois Commerce Commission, the Maryland Public
18 Service Commission, the Nevada Public Service Commission, the New Hampshire
19 Public Utilities Commission, the New York Public Service Commission, the
20 Pennsylvania Public Utility Commission, the Public Service Commission of the
21 District of Columbia, the Public Service Commission of Wisconsin, the Utah Public
22 Service Commission, and the Virginia State Corporate Commission.

23

1 Exhibit JRM-1 provides additional information concerning my education and
2 profession background.

3
4 Q. BY WHOM ARE EMPLOYED TO PRESENT THIS TESTIMONY?

5 A. I am employed as a financial consultant by Emery County to present testimony in this
6 proceeding. PacifiCorp property comprised approximately 75% of the total of all
7 centrally and locally assessed property in Emery County in 1998. Moreover,
8 PacifiCorp property represented the largest centrally assessed single company
9 property in Utah during 1996. Exhibit JRM-2 presents specific
10 quantitative information prepared by the Utah State Tax Commission concerning
11 these assessed property relationships. Emery County is concerned about potential
12 net harm associated with the proposed merger between PacifiCorp and
13 ScottishPower.

14
15 Q. WHAT ARE THE PRIMARY PURPOSES OF YOUR DIRECT TESTIMONY IN
16 THIS PROCEEDING?

17 A. The primary purposes of my direct testimony in this proceeding are:

18 (1) to describe the financial framework used to value PacifiCorp;

19 (2) to comment on the accounting method that will be used for this merger
20 transaction; and

21 (3) to make specific recommendations to the Public Service Commission of Utah.

22

1 **II. FINANCIAL FRAMEWORK FOR VALUATION**

2
3 **Q. PLEASE SUMMARIZE THE SPECIFIC CONDITIONS CONCERNING THE**
4 **CONVERSION OF OUTSTANDING COMMON STOCK OF PACIFICORP IN**
5 **THIS MERGER?**

6 **A. According to the direct testimony (page 2, lines 14-19) of Mr. Robert D. Green of**
7 **ScottishPower in this proceeding:**

8 “ScottishPower proposes to merge with PacifiCorp by acquiring all of the
9 outstanding common stock of PacifiCorp. Under the terms of the agreement, each
10 PacifiCorp share will be exchanged tax-free for 0.58 American Depositary Receipts
11 or 2.32 ordinary shares of ScottishPower. Before allowance for any buyback, this
12 will give ScottishPower shareholders approximately 64% and current PacifiCorp
13 shareholders approximately 36% ownership in the combined group.”

14
15 Conditions concerning the conversion of PacifiCorp common stock in the merger are
16 also discussed on page 57 of the PacifiCorp Proxy Statement.

17
18 **Q. WHAT IS THE FINANCIAL BASIS FOR THE CONDITIONS OF THE**
19 **CONVERSION OF OUTSTANDING COMMON STOCK OF PACIFICORP IN**
20 **THE MERGER?**

21 **A. The primary financial basis for conditions of the conversion of outstanding common**
22 **stock of PacifiCorp in the merger is the opinion of its financial advisor, Salomon**
23 **Smith Barney, and the opinion of ScottishPower’s financial advisor, Morgan Stanley.**

1 Q. PLEASE SUMMARIZE THE FINANCIAL METHODS USED BY THESE
2 FINANCIAL ADVISORS FOR FINANCIAL OPINIONS AND VALUATION.

3 A. Based on information provided in pages 40-46 of the PacifiCorp Proxy Statement,
4 Salomon Smith Barney used the following financial analyses/approaches concerning
5 the financial valuation of PacifiCorp common stock and ScottishPower ordinary
6 shares: discounted cash flow analysis, public market valuation analysis, sum-of-the-
7 parts valuation analysis, valuation comparison contribution analysis, and pro forma
8 analysis of the merger.

9 Based on information provided on pages 46-54 of PacifiCorp Proxy Statement,
10 Morgan Stanley used the following financial analyses/approaches concerning the
11 financial valuation of PacifiCorp common stock and ScottishPower ordinary shares:
12 historical common stock performance, comparative stock price performance, trading
13 ratio analysis, comparable public company analysis, discounted cash flow analysis,
14 analysis of selected precedent transactions, contribution analysis, pro forma analysis
15 of the merger, and business line analysis.

16

17 **III. ACCOUNTING METHOD FOR MERGER TRANSACTION**

18

19 Q. WHAT IS THE ACCOUNTING METHOD THAT WILL BE UTILIZED FOR THE
20 MERGER TRANSACTION?

21 A. According to the direct testimony (page 3, lines 4-11) of Mr. Robert D. Green of
22 ScottishPower in this proceeding:

23

1 “The transaction will be accomplished through a share-for-share exchange for all of
2 the issued and outstanding shares of PacifiCorp common stock in a transaction in
3 which all outstanding debts obligations of PacifiCorp will remain. This form of
4 transaction is required to be accounted for using the “purchase” method of accounting.
5 The purchase method of accounting requires all assets and liabilities of PacifiCorp to
6 be valued at fair market value at the time of closing of the transaction. After
7 assigning fair market values to all identifiable assets and liabilities, any unallocated
8 portion of the purchase price is recorded as goodwill.”

9
10 Additional information concerning the use of the purchase method of accounting for
11 this merger is presented on page 78 of the PacifiCorp Proxy Statement.

12
13 Q. UNDER THE PROPOSED PURCHASE METHOD OF ACCOUNTING, DOES
14 SCOTTISHPOWER PLAN TO MAKE ACCOUNTING CHANGES
15 CONCERNING ASSETS OF PACIFICORP?

16 A. Yes. Using the purchase method of accounting, U.S. GAAP, and U.K. GAAP,
17 ScottishPower plans to make accounting changes concerning the assets of PacifiCorp.
18 Some of the proposed accounting changes are specified in the following list.

19 First, assets of PacifiCorp will be valued at fair market value at the time of the
20 closing of the transaction. Second, there will be a re-allocation of assets between
21 tangible assets and intangible assets including goodwill. Third, other intangible assets,
22 such as trademarks, operating licenses, and customer lists, could be assigned
23 quantitative values.

1 Additional information concerning accounting changes to assets of PacifiCorp is
2 presented on pages 84-100 of the PacifiCorp Proxy Statement.

3

4 Q. DO YOU BELIEVE THAT THE PROPOSED PURCHASE METHOD OF
5 ACCOUNTING SHOULD SIGNIFICANTLY IMPACT THE TRADITIONAL
6 COST ACCOUNTING METHOD USED IN THE RATE BASE-RATE OF
7 RETURN REGULATORY FRAMEWORK APPLIED TO PACIFICORP BY THE
8 UTAH PUBLIC SERVICE COMMISSION?

9 A. No. The traditional regulatory accounting framework uses a different costing
10 foundation and financial premises as compared to the purchase method of accounting.

11

12 Q. ARE THESE PROPOSED ACCOUNTING CHANGES CONCERNING ASSETS
13 OF PACIFICORP REASONABLE FOR VALUING AND ASSESSING
14 PROPERTY?

15 A. Based on the information presented in the PacifiCorp Proxy Statement and
16 practices and policies at the Utah State Tax Commission, I believe that some of the
17 proposed accounting changes concerning assets of PacifiCorp are unreasonable for
18 valuing property in Utah. Specifically, part of the unallocated portion of the
19 purchase price could certainly be attributable to enhancements to tangible assets
20 as opposed to intangible assets, including goodwill. Moreover, valuation of
21 property issues concerning: (1) the assignment of assets to intangible assets versus
22 enhancement to tangible assets and (2) the assignment of assets to specific types
23 of intangible assets are in the jurisdiction of the Utah State Tax Commission.

1 Exhibit JRM-3 presents a copy of recent (1998) legislation concerning the definition
2 of intangible property in Utah. Please note that goodwill is not defined as intangible
3 property in this legislation.
4

5 **IV. RECOMMENDATIONS**
6

7 Q. DO YOU HAVE ANY RECOMMENDATIONS CONCERNING THIS MERGER
8 CASE AND THE VALUING AND ASSESSING OF PACIFICORP PROPERTY?

9 A. Yes. I recommend that the Public Service Commission of Utah *defer* rulings or
10 findings relating to this merger that concern valuation and assessment issues of
11 PacifiCorp property, including the allocation between enhancement to tangible assets
12 versus intangible assets and the allocation to specific types of intangible assets, to the
13 jurisdiction of the Utah State Tax Commission.
14

15 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

16 A. Yes.

Emery County

Exhibit: JRM-1

PSCU Docket No. 98-2035-04

Witness: J. Robert Malko

J. ROBERT MALKO

Biographical Data

Dr. Malko is a Professor of Finance in the College of Business at Utah State University in Logan, Utah. He currently serves on the Board of Directors of the National Regulatory Research Institute at the Ohio State University. Dr. Malko serves as an Advisory Council Member of the Society of Utility and Regulatory Financial Analysts and served as President of this organization between 1988 and 1990. He serves on the Advisory Council of the Center for Public Utilities at New Mexico State University. He has served as Chair of the Transportation and Public Utilities Group of the American Economic Association. Earlier (1975-77 and 1981-86) J. Robert Malko served as Chief Economist at the Public Service Commission of Wisconsin. He also served as Chairman and Vice-Chairman of the Staff Subcommittee on Economics and Finance of the National Association of Regulatory Utility Commissioners. In 1978-80, he served as Program Manager of the Electric Utility Rate Design Study at the Electric Power Research Institute in Palo Alto, California. Dr. Malko has presented guest lectures on public utility and regulatory issues at several universities. He has carried out consulting assignments for state governments and energy utilities. Dr. Malko has appeared as an expert witness on energy utility finance and pricing issues before several regulatory commissions. He has written approximately 150 articles on public utility economics and finance that have been published in books and journals including, Forum For Applied Research and Public Policy; Journal of Business Administration; Journal of Energy Law and Policy; The Journal of Energy and Development; Energy: The International Journal; and Wisconsin Law Review. Dr. Malko is co-editor of Electric Utilities Moving Into The 21st Century published by PUR in 1994, Reinventing Electric Utility Regulation published by PUR in 1995, and Customer Choice: Finding Value in Retail Electricity Markets published by PUR in 1999. Dr. Malko received the B.S. degree with honors in mathematics and economics from Loyola College (Baltimore, Maryland) and the M.S. and Ph.D. degrees in economics from the Krannert Graduate School of Management at Purdue University. He was a Visiting Scholar in industrial engineering at Stanford University in Palo Alto, California. He has taken graduate courses in business finance and investment theory at the University of Wisconsin at Madison. Dr. Malko is a member of Beta Gamma Sigma, a national honor society for business schools, and he is also a member of Alpha Sigma Nu, the honor society of Jesuit colleges and universities.

J. ROBERT MALKO
Professional Vita

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DATE & PLACE OF BIRTH: December 25, 1943
Baltimore, Maryland

MARITAL STATUS: Married, two children

EDUCATION:

Doctor of Philosophy degree in economics from the Krannert Graduate School of Management at Purdue University (Lafayette, Indiana), 1972.

Master of Science degree in economics from the Krannert Graduate School of Management at Purdue University (Lafayette, Indiana), 1968.

Bachelor of Science degree, cum laude, in mathematics and economics (majors) and political science (minor) from Loyola College (Baltimore, Maryland), 1966.

Business finance courses at Graduate School of Business, University of Wisconsin (Madison), 1982-1986.

Visiting Scholar in industrial engineering and public utility economics, Stanford University (Palo Alto, California), 1980.

Accounting courses at Illinois State University (Normal, Illinois), 1971-1973 and public utility courses at the University of Wisconsin (Madison), 1976-1977.

GOVERNMENT AND BUSINESS:

Chief Economist, Public Service Commission of Wisconsin, Madison, Wisconsin, January 1981 to December 1986.

Economist, Program Manager, The Electric Utility Rate Design Study at the Electric Power Research Institute at Palo Alto, California; this is a study for the National Association of Regulatory Utility Commissioners; Program Manager, December 1979 to January 1981; Project Manager, December 1977 to December 1979.

Chief Economist, Public Service Commission of Wisconsin, Madison, Wisconsin, June 1975 to December 1977.

Economist, Utility Rates Division, Public Service Commission of Wisconsin, Madison, Wisconsin, December 1974 to June 1975.

Energy Utility Consultant (Spring 1996-present), Energy Strategies, Inc., Salt Lake City, Utah.

Energy Utility Consultant (Winter 1997), Retail Merchants Association, Concord, New Hampshire.

Energy Utility Consultant (Summer 1995-Spring 1996), Southern Company Services, Inc., Atlanta Georgia.

Energy Utility Consultant (Spring 1995), PECO Energy Company, Philadelphia, Pennsylvania.

GOVERNMENT AND BUSINESS: (Cont.)

Energy Utility Consultant (Fall 1994-Spring 1995), Virginia State Corporation Commission Staff, Richmond, Virginia.

Energy Utility Consultant (Fall 1994), Mountain Fuel Supply Company, Salt Lake City, Utah.

Energy Utility Consultant (Summer 1994-Fall 1994), Brooklyn Union Gas Company and the E Cubed Company, Brooklyn, New York.

Senior Consultant (Winter 1993-Winter 1997), Utility Services Group - AUS Consultants, Moorestown, New Jersey.

Energy Utility Consultant (Spring-Fall 1992), Wisconsin Energy Conservation Corporation, Madison, Wisconsin

Energy Utility Consultant (Fall 1990-Fall 1991) Associated Electric Cooperative, Inc., Springfield, Missouri.

Energy Utility Consultant (Fall 1990), Arizona Electric Power Cooperative, Inc., Benson, Arizona.

Energy Utility Consultant (Fall 1989 to present), The Management Exchange, New York City, New York.

Energy Utility Consultant (Summer 1989-Fall 1991, Spring 1993, and Spring 1997), Washington Gas Light Company, Washington, D.C.

Energy Utility Consultant (Spring 1989), LMSL, Inc. and the Arizona Corporation Commission, State of Arizona.

Energy Utility Consultant (Summer 1986-Spring 1988), Illinois Office of Public Counsel, State of Illinois.

Energy Utility Consultant (Fall 1985), Virginia State Corporation Commission, State of Virginia.

Energy Utility Consultant (Summer-Fall 1982, Spring 1984, Spring 1985, Spring-Summer 1990, Fall 1991-Spring 1992, Winter 1994), Hawaii Consumer Advocacy Division, State of Hawaii, Honolulu, Hawaii.

Energy Utility Consultant (Spring-Summer 1982, Summer-Fall 1983), Alaska Public Utilities Commission, State of Alaska.

Energy Utility Consultant (Winter 1982), Nevada Public Service Commission, State of Nevada.

Energy Utility Consultant (Fall 1981), Kentucky Public Service Commission, State of Kentucky.

Energy Utility Consultant (Spring 1981), Hawaii Public Utilities Division, State of Hawaii.

Energy Utility Consultant (Fall 1977), Electric Power Research Institute, Palo Alto, California.

Energy Utility Consultant (Spring-Summer 1977), Illinois Commerce Commission, State of Illinois.

Energy Utility Consultant (Spring-Summer 1977), Office of the Consumer Advocate, State of Pennsylvania.

Energy Utility Consultant (Winter 1976), Public Utilities Commission of Ohio, State of Ohio.

Energy Utility Consultant (Spring 1976, Spring 1977), Office of Consumer Counsel, State of Connecticut.

Economist, U.S. Department of Commerce, Bureau of Economic Analysis, Government Division, Washington, D.C., June 1974 to December 1974.

Program Performance Budget Consultant (Spring-Summer 1973), City of Bloomington, Bloomington, Illinois.

Tax Consultant (Summer-Fall 1972), City of Bloomington, Bloomington, Illinois.

GOVERNMENT AND BUSINESS: (Cont.)

Administrative Analyst (Summer 1969), Department of Fiscal Services, Division of Fiscal Research, State of Maryland, Annapolis, Maryland.

Worked on research projects in the Business Methods Department (Summer 1964) and the Business Computer Department (Summer 1965) of Western Electric Company, Baltimore, Maryland.

RESEARCH:

At Utah State University, I am continuing to focus my research on various financial and pricing issues, such as corporate restructuring, nuclear decommissioning, cost of capital analysis, and time-of-use pricing, concerning energy utilities.

At the Public Service Commission of Wisconsin between 1981 and 1986, I focused my research on various financial issues, such as diversification and rate of return analysis, concerning energy utilities and telephone utilities. In addition, I analyzed issues relating to rate design and cost-of-service studies for electricity, natural gas, and telephone. I developed and presented expert testimony in rate and rule making proceedings that pertain to economic and financial issues relating to public utilities.

At the Electric Power Research Institute between 1978 and 1980, I focused my research on the desirability and technical feasibility of time-of-use pricing and direct load controls for electricity usage.

At the Public Service Commission of Wisconsin between 1975 and 1977, I focused my research on various problems faced by electric utilities and gas utilities. I have analyzed problems related to rate design, cost of service studies, load management, consumer and environmental impact analysis, public utility productivity and demand forecasting. I have developed and presented expert testimony in rate and rule making proceedings that pertain to economic issues relating to public utilities.

At the U.S. Department of Commerce during 1974, I focused my research on estimating the interest subsidy associated with programs of the Federal Government and its agencies incorporated in the Federal Government sector of the national income accounts.

At Illinois Wesleyan University and Illinois State University between 1971 and 1974, I focused my research work on analyzing relationships between microeconomic theory and financial cost accounting theory.

For my doctoral research, I analyzed various aspects of benefits received by business firms and households from municipal fire protection services, and I proposed policy implication concerning taxes needed to finance these services. In this analysis, fire insurance rates were used in order to quantify benefits received by economic units. Dissertation has been used by Insurance Services Office, Midwestern Regional Office (Chicago). Dissertation Director, Keith Brown.

TEACHING:

Professor of Finance, College of Business, Utah State University (Logan, Utah), January 1987 to present; granted tenure in June 1988 and promoted to Full Professor in June 1989; I teach the following courses: Principles of Corporate Finance, Advanced Finance Problems (Case Studies), Finance Issues and Public Utilities, Managerial Economics, and Investments; won Outstanding MBA Professor of the Year Award, 1989-90 and 1990-91.

Visiting Guest Lecturer, College of Law, University of Utah (Salt Lake City, Utah), 1993.

Guest Lecturer, School of Business, University of Wisconsin at Madison, Spring 1976 to December 1986; I have taught and presented guest lectures in regulation of public utility courses and have presented guest lectures in business finance courses on a part-time basis.

Guest Lecturer, Department of Industrial Engineering and School of Business, Stanford University, Summer 1978 to Summer 1980; School of Business, University of California at Berkeley, Spring 1979; Department of Economics, Michigan State University, Spring 1978; I have presented guest lectures in regulation of public utilities and applied microeconomics courses at these universities.

TEACHING: (Cont.)

Assistant Professor of Economics, Illinois Wesleyan University (Bloomington, Illinois), September 1970 to May 1974. At Illinois Wesleyan, I taught the following courses: Principles of Economics, Principles of Accounting, Intermediate Microeconomic Theory, Business Statistics, Money and Banking, Public Finance, Economic Growth and Development, and Mathematical Economics.

Assistant Professor of Business Administration, Illinois State University (Normal, Illinois), Spring 1973 to Spring 1974 on a part-time basis. Course taught: Managerial Economics.

Teaching Assistant (Graduate Instructor) at Purdue University from September 1966 to June 1970; won outstanding teaching award in 1970. At Purdue University, I taught the following courses: Principles of Economics, Economic History, Intermediate Microeconomic Theory and Intermediate Macroeconomic Theory.

PAPERS AND PUBLICATIONS:

This section of the resume lists papers and publications and is organized in the following manner: (1) academic and policy journals, (2) books, (3) chapters in books, (4) academic and policy conferences with published proceedings, (5) academic and policy conferences and (6) technical reports.

I. Academic and Policy Journals

J. Robert Malko, "Assessing Corporate Restructurings In The Electric Utility Industry: A Framework," appears in NRRI Quarterly Bulletin, Vol. 17, No. 4, Winter 1996-97 issue.

Joseph F. Brennan and J. Robert Malko, "Rate Unbundling: Are We There Yet? A Reality Check," in Public Utilities Fortnightly, June 1996 issue.

David A. Foltz, J. Robert Malko, Gregory J. Pumilia, and Thomas J. Purvenas, "Purchased Power Is Not A Riskless Strategy," appears in The Electricity Journal, Vol. 7, No. 10, December 1994.

J. Robert Malko, "Comments On The Paper by Rodney Stevenson and Dennis Ray," appears in Utilities Policy, Vol. 3, No. 4, October 1993.

Caryn L. Beck-Dudley and J. Robert Malko, "Dotting the Horizon: Will The United States Be Able To Decommission Its Nuclear Power Plants?" appears in Journal of Energy Law and Policy, Vol. 10, No. 2, 1990.

Donna L. Tanner, Richard J. Williams, and J. Robert Malko, "Utility Diversification: Issues and Activities in Virginia," appears in Electric Potential, February 1989 issue. This paper was also presented at The Sixth NARUC Biennial Regulatory Information Conference, National Regulatory Research Institute at The Ohio State University, Columbus, September 1988; this paper also appears in Conference Proceedings.

J. Robert Malko and Philip R. Swensen, "Corporate Restructurings In The Electric Utility Industry: Some Common Issues," appears in Business Insights, Spring 1989 Issue, Vol. 8., No. 2; an earlier version of this paper was presented at the Tenth Annual Public Utilities Conference, sponsored by New Mexico State University, held in Albuquerque, New Mexico, October 1987.

Ahmad Faruqui and J. Robert Malko, "Pakistan's Economic Development in a Global Perspective," appears in Asian Profile, Vol. 16, No. 6, December 1988 issue; an earlier version of this paper was presented at the Second Biennial Conference Of The Pakistan Engineers and Scientists Association, held at Stanford University, Palo Alto, California, September 1987; also appears in the Conference Proceedings.

J. Robert Malko and George R. Edgar, "Energy Utility Diversification and Small Business: A Wisconsin Perspective," appears in The Journal of Energy and Development, Vol. 13, No. 1 (issued July 1988); an earlier version of this paper was prepared for presentation to the Midwest Economics Association Annual Meeting, Chicago, Illinois, April 1988.

J. Robert Malko, "Alternative Approaches For Funding Nuclear Power Plant Decommissioning Expenses: Some Financial Issues and Considerations," appears in Forum For Applied Research And Public Policy, Vol. 2, No. 4, Winter 1987 issue.

PAPERS AND PUBLICATIONS: (Cont.)

I. *Academic and Policy Journals*

J. Robert Malko, Caryn L. Beck-Dudley, and Philip R. Swensen, "Corporate Restructuring and Transferring Regulation of Electricity Generation: Some Issues, Considerations and Activities," appears in Electric Potential, November-December 1987 issue; an earlier version of this paper was presented at the Nineteenth Financial Forum, sponsored by the National Society of Rate of Return Analysts, Washington, D.C., May 1987.

J. Robert Malko and George R. Edgar, "Diversification in the Gas Industry: Some Comments," (short comments) appears in Public Utilities Fortnightly, October 1987 issue.

J. Robert Malko, Richard Williams, and George Hermina, "Electric Utility Diversification: Activities In Some Eastern States," appears in The Kentucky Journal of Economics and Business, Vol. 7, September 1987 issue; an earlier version of this paper was presented at the Eastern Finance Association 1987 Annual Meetings, Baltimore, Maryland, April 1987; an abstract of this paper appears in the 1987 Proceedings Issue of the Financial Review; this paper was also presented at the National Association of Regulatory Utility Commissioners (NARUC) Annual Summer Committee Meetings San Francisco, California, July 1987; this paper also appears in The 1987 Report of the NARUC Committee on Utility Diversification, National Association of Regulatory Utility Commissioners, Washington, D.C., March 1988.

George R. Edgar and J. Robert Malko, "Electric Utilities as Part of Diversified Business: Some Considerations and Thoughts," appears in Electric Potential, July-August 1987 issue; this paper was presented at the Thirteenth Annual Rate Symposium, sponsored by the Institute for the Study of Regulation and the University of Missouri-Columbia, held in St. Louis, Missouri, February 1987; also appears in the Symposium Proceedings; this paper also appears in The 1987 Report of the NARUC Committee on Utility Diversification, National Association of Regulatory Utility Commissioners, Washington, D.C., March 1988.

J. Robert Malko, "Diversification and Strategic Planning in the Electric Power Industry," (short comments) appears in Forum For Applied Research And Public Policy, Vol. 2, No. 2, Summer 1987 issue.

J. Robert Malko and George R. Edgar, "Energy Utility Diversification: Its Status in Wisconsin," Public Utilities Fortnightly, August 1986 issue.

Steven G. Kihm, Clarence E. Mouglin, and J. Robert Malko, "An External Fund Approach for Nuclear Power Plant Decommissioning Expenses: Wisconsin Activities," appears in Electric Potential, March-April 1986 issue.

J. Robert Malko, "Applying Regulatory Strategic Planning to Electric Utilities," appears in Electric Potential, January-February 1986 issue.

J. Robert Malko and Gregory B. Enholm, "Applying CAPM In a Utility Rate Case: Current Issues and Future Directions," appears in Electric Potential, September-October 1985 issue.

Ahmad Faruqui and J. Robert Malko, "The Residential Demand for Electricity by Time-of-Use: A Survey of Evidence from Twelve Experiments with Peak-Load Pricing," appears in Energy: The International Journal, October 1983 issue.

J. Robert Malko, "Comments: Jury Still Out On The Arbitrage Pricing Theory," (short comments) appears in Public Utilities Fortnightly, June 1983 issue.

J. Robert Malko and Terrace B. Nicolai, "Implementing Residential Time-of-Day Pricing of Electricity in Wisconsin: Some Current Activities and Issues," presented at Ninth Annual Symposium on Problems of Regulated Industries, sponsored by the Institute for Study of Regulation and the University of Missouri-Columbia, held at Kansas City, Missouri, February 1983; appears in Proceedings of this conference; also appears in Electric Ratemaking, February/March 1983 issue.

Stanley York and J. Robert Malko, "Utility Diversification: A Regulatory Perspective," Public Utilities Fortnightly, January 1983 issue.

PAPERS AND PUBLICATIONS: (Cont.)

I. Academic and Policy Journals

Gregory B. Enholm, Theodore M. Jaditz, and J. Robert Malko, "Electric Utility Diversification In The 1980s: A Challenge For Applied Regulatory Economics," presented at the Midwest Economics Association Forty-Sixth Annual Meeting, Chicago, Illinois, April 1982; appears in The Journal of Energy and Development, Autumn 1982 issue.

J. Robert Malko and Gregory B. Enholm, "Electric Utility Diversification: Some Regulatory Concerns and Issues," appears in Electric Ratemaking, Vol. 1, No. 2, April 1982.

J. Robert Malko, Dennis J. Ray and Nancy L. Hassig, "Time-of-Day Pricing of Electricity Activities in Some Midwestern States," presented at the Midwest Economics Association Annual Meeting, Chicago, Illinois, April 1979; appears in Journal of Business Administration, Volume 12, Spring 1981.

Teri L. Vierima and J. Robert Malko, "Natural Gas Rate Design: Innovative Activities in Wisconsin," Public Utilities Fortnightly, October 1981 issue.

J. Robert Malko and Robert G. Uhler, "Helping Regulators Evaluate Load Management: An Update of The Rate Design Study," Public Utilities Fortnightly, October 1979 issue.

Carol T. Everett and J. Robert Malko, "Measuring the Impact of Residential Gas and Electric Rates," Public Utilities Fortnightly, December 1977 issue.

J. Robert Malko, Malcolm A. Lindsay, and Carol T. Everett, "Towards Implementation of Peak-Load Pricing of Electricity: A Challenge for Applied Economics," The Journal of Energy and Development, Autumn 1977 issue.

J. Robert Malko and David Stipanuk, "Electric Peak-Load Pricing: A Wisconsin Framework," Public Utilities Fortnightly, July 1976 issue.

Richard D. Cudahy and J. Robert Malko, "Electric Peak-Load Pricing: Madison Gas and Beyond," Wisconsin Law Review, Volume 1976, Number 1, Spring 1976.

J. Robert Malko and Ernst Harwig, "Municipal Electric Utility Pricing," Governmental Finance, February 1976.

II. Books

Gregory B. Enholm and J. Robert Malko, editors, Reinventing Electric Utility Regulation, published by Public Utilities Reports, Inc., Vienna, Virginia, 1995.

Gregory B. Enholm and J. Robert Malko, editors, Electric Utilities Moving Into The 21st Century, published by Public Utilities Reports, Inc., Arlington, Virginia, 1994.

James M. Fischer, J. Robert Malko, and Richard L. Wallace, editors, Pricing Electric, Gas, and Telecommunication Services: Rate Symposium Proceedings, published by University of Missouri-Columbia, 1989.

III. Chapters in Books

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III. *Chapters in Books*

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V. *Academic and Policy Conferences*

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VI. *Technical Reports*

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VI. *Technical Reports*

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An Analysis of Revenue Sources For The City of Bloomington, prepared by J. Robert Malko, prepared for the Municipal Government of Bloomington, Illinois, September 1972.

PRESENTATIONS:

Electric Utility Rate Design Study Activities (1979-80)

Utah Public Service Commission Staff, Salt Lake City, Utah, July 1980

NARUC Committee on Electricity, San Francisco, California, July 1980

Northwest Public Power Association Rates Symposium, Vancouver, B.C., Canada, July 1980

Quebec Hydro Staff, Montreal, Quebec, Canada, July 1980

Illinois Commerce Commission Staff, Springfield, Illinois, June 1980

Western Conference of Public Service Commission, Anchorage, Alaska, June 1980

Alaska Public Utilities Commission, Anchorage, Alaska, June 1980

APPA Load Management Conference, Kansas City, Missouri, June 1980

Commonwealth Edison Company Staff, Chicago, Illinois, March 1980

Electricite de France Staff, Paris, France, February 1980

ANIE/INTEL Conference, Milan, Italy, February 1980

The Electricity Council Staff, London, England, February 1980

Tennessee Valley Authority Staff, Knoxville, Tennessee, December 1979

APPA Rates Workshop, San Francisco, California, November 1979

Commonwealth Club, San Francisco, California, November 1979

APPA Rates and PURPA Conference, Denver, Colorado, November 1979

Colorado Public Utilities Commission Staff, Denver, Colorado, November 1979

Bonneville Power Administration Staff, Portland, Oregon, October 1979

Iowa State Legislature, Public Utility Joint Subcommittee, Des Moines, Iowa, October 1979

Iowa State Commerce Commission Staff, Des Moines, Iowa, October 1979

Edison Electric Institute Rate Research Committee, Delavan, Wisconsin, September 1979

Tennessee Valley Authority Staff, Chattanooga, Tennessee, September 1979

NARUC Staff and District of Columbia Public Service Commission Staff, Washington, D.C., September 1979

Edison Electric Institute Staff, Washington, D.C., September 1979

U.S. Department of Energy, Economic Regulatory Administration, Office of Utility Systems Staff, Washington, D.C., September 1979

National Rural Electric Cooperative Association Staff, Washington, D.C., September 1979

Connecticut Public Utilities Control Authority Staff, Hartford, September 1979

New Hampshire Public Utilities Commission, Concord, September 1979

Ontario Hydro Staff, Toronto, Ontario, Canada, August 1979

NARUC Committee on Electricity, San Francisco, California, August 1979
1979 NARUC Annual Regulatory Studies Programs, Michigan State University, August 1979
Michigan Public Service Commission, Lansing, August 1979
California Public Utilities Commission, San Francisco, California, July 1979
Minnesota Public Service Commission, St. Paul, July 1979
Virginia State Corporation Commission, Richmond, July 1979
North Carolina Utilities Commission, Raleigh, July 1979
Research Triangle Institute, Economics Section, Raleigh, July 1979
Wisconsin Public Service Commission, Madison, July 1979
University of Wisconsin, Utility Rates Conference, Madison, July 1979
American Public Power Association Conference, Seattle, June 1979
Washington Utility and Transportation Commission, Olympia, June 1979
Stanford University, Public Utilities Conference, Palo Alto, June 1979
Massachusetts Department of Public Utilities, Boston, May 1979
University of California, Graduate School of Business, Berkeley, May 1979
Federal Energy Regulatory Commission, Washington, D.C., April 1979
University of Wisconsin, Utility Load Management Conference, Madison, April 1979
Electric Power Research Institute, Energy Analysis Department Symposium, Palo Alto, March 1979
U.S. Department of Energy, Economic Regulatory Administration, Washington, D.C., February 1979
Edison Electric Institute Rate Research Committee Conference, New Orleans, January 1979

TESTIFYING EXPERIENCE:

Presented testimony before the Arizona Corporation Commission (1989), the Connecticut Public Utilities Control Authority (1976-77), District of Columbia Public Service Commission (1990), the Federal Energy Regulatory Commission (1986), the Hawaii Public Utilities Commission, (1981, 1984-85, 1990, 1992, 1994), the Illinois Commerce Commission (1987-88), Maryland Public Service Commission (1990-1991), the New Hampshire Public Utilities Commission (1997), the Nevada Public Service Commission (1982), the New York Public Service Commission (1994), the Pennsylvania Public Utility Commission (1977), the Public Service Commission of Wisconsin (1975-77, 1981-86), the Utah Public Service Commission (1994), and the Virginia State Corporation Commission (1985, 1993).

ORGANIZATIONS AND COMMITTEES:

American Finance Association

American Economics Association; Transportation and Public Utility Group, Vice-Chair, 1992, Chair, 1993, and Executive Committee, 1994-1996.

American Law and Economics Association

Financial Management Association

Midwest Finance Association

Midwest Economics Association

Eastern Finance Association

The National Society of Rate of Return Analysts Advisory Council, 1996-2000, Board of Directors, 1984-86, 1990-1996; Vice President, 1986-1988 and President 1988-90

Rate and Regulatory Symposium, University of Missouri, Advisory Council, 1987-97

Council on Economic Regulation Fellow, 1986-96

ORGANIZATIONS AND COMMITTEES: (Cont.)

National Association of Regulatory Commissioners - Staff Subcommittee on Economics and Finance (Chairman, 1976-77 and Vice Chairman, 1981-86)

Who's Who in California Business and Finance, 1980

University of Wisconsin-Madison, Wisconsin Public Utility Institute, Executive Board (Chairman 1981-82), 1981-1985.

New Mexico State University, Public Utility Conference Advisory Committee, 1981-97.

Electric Power Research Institute, Demand and Conservation Program, Project Review Committee, 1982-83.

Alpha Sigma Nu, the National Jesuit Honor Society

Beta Gamma Sigma, National Honor Society for Business Schools.

Electric Ratemaking Journal, Board of Advisors, 1982-83.

Electric Potential Journal, Honorary Board of Editors, 1987-88.

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Revised April 1997

Emery County

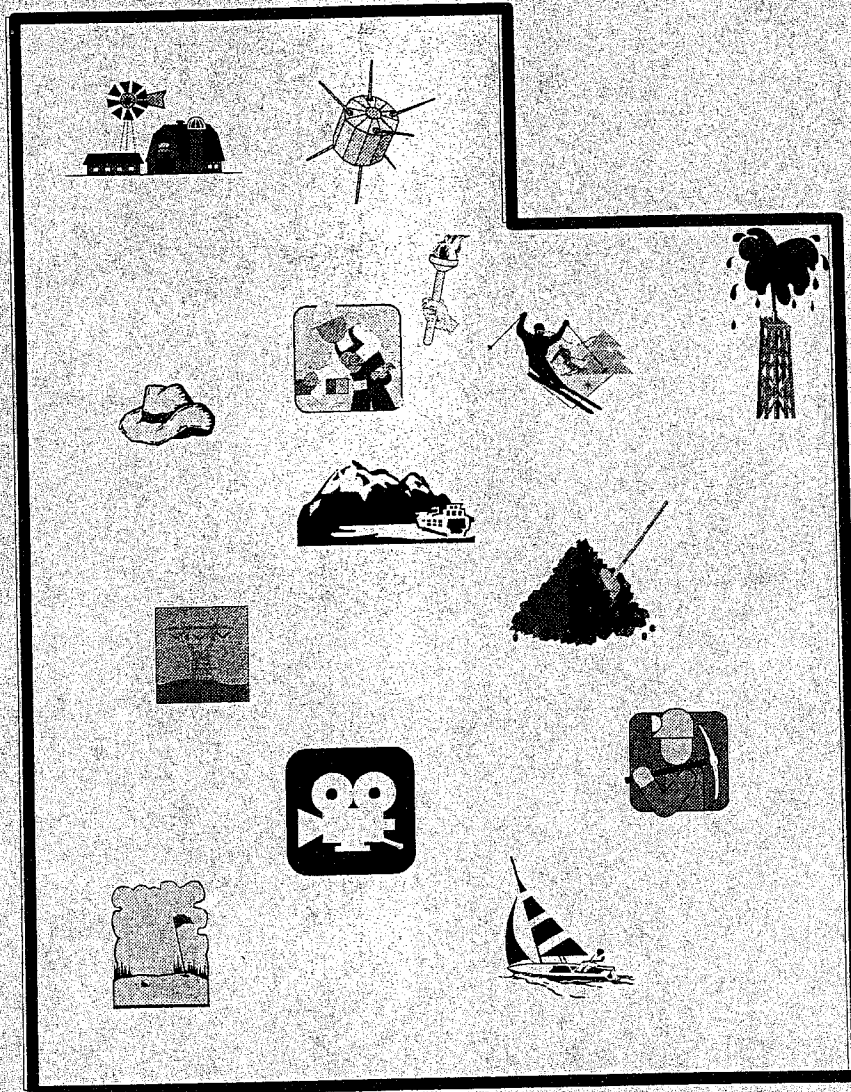
Exhibit: JRM-2

PSCU Docket No. 98-2035-04

Witness: J. Robert Malko

1998 INTERIM VALUE AND TAX STATISTICS

Utah State Tax Commission,
Property Tax Division



**LOCAL, PERSONAL AND CENTRALLY ASSESSED PROPERTY
PREPARED BY RUDY GONZALES,
SENIOR RESEARCH ANALYST**

TABLE 1 - SUMMARY OF TAXABLE VALUES FOR PROPERTY ASSESSED
BY THE STATE TAX COMMISSION FOR CALENDAR YEAR 1998

COUNTY	AIRLINES	OTHER TRANSPORTATION	OIL & GAS DISTR. PIPELINES & PROD	POWER	TELEPHONE AND TELEGRAPH	METAL MINES	NON-METAL MINES & OIL - GAS EXPL	TOTAL CENTRALLY ASSESSED
BEAVER	11,425,920	12,045,183	31,973,341	64,334,247	17,403,230	570,500	12,778,770	150,531,191
BOX ELDER	49,327,816	66,532,320	9,681,185	79,015,847	64,312,270	197,090	27,078,470	296,144,998
CACHE	9,263,580	12,439,189	18,616,494	38,284,011	42,542,043	9,630	2,134,470	123,289,417
CARBON	8,838,493	49,146,015	12,092,757	77,543,914	25,912,555	0	358,220,592	531,754,326
DAGGETT	13,289,990	0	54,974,688	1,648,932	3,454,110	0	13,906,680	87,274,400
DAVIS	21,480,118	29,328,567	54,509,834	64,203,055	112,257,654	0	25,400,296	307,179,524
DUCHESENE	42,652,701	0	12,187,242	37,644,540	17,443,535	0	199,204,609	309,132,627
EMERY	1,647,964	14,686,439	1,963,033	1,137,819,862	13,818,829	13,200	140,871,763	1,310,821,090
GARFIELD	8,220,090	0	476,404	12,106,480	13,322,788	5,142,790	7,562,550	46,831,102
GRAND	11,634,712	23,838,057	26,287,552	18,422,521	18,115,925	47,810	36,386,807	134,733,384
IRON	9,982,908	22,546,962	54,245,915	57,141,611	44,645,463	3,533,315	2,687,440	194,783,614
JUAB	21,567,510	17,931,125	30,482,963	50,413,960	14,077,109	2,371,070	56,370,253	193,213,990
KANE	5,890,411	0	0	10,095,384	11,446,444	0	651,100	28,083,339
MILLARD	39,951,011	21,724,478	82,412,652	1,725,141,348	28,646,062	20,689,780	35,995,260	1,954,560,591
MORGAN	7,552,900	9,767,624	20,268,655	5,864,561	15,535,937	32,100	102,196,490	161,218,267
PIUTE	3,437,020	0	1,674,690	6,605,055	1,863,922	238,970	121,530	13,941,187
RICH	4,009,570	0	11,588,258	12,302,884	11,197,045	0	11,770,630	50,868,387
SALT LAKE	132,356,648	72,171,554	255,499,399	608,242,596	913,013,593	1,592,501,000	69,417,869	3,643,202,659
SAN JUAN	1,709,880	0	26,495,044	38,869,475	11,677,025	425,380	247,103,780	326,280,584
SANPETE	2,280,840	0	8,023,243	21,444,827	20,091,980	35,130	5,406,230	57,282,250
SEVIER	5,294,712	0	5,642,285	47,063,385	21,336,278	41,160	213,269,399	292,647,219
SUMMIT	48,070,879	16,233,879	73,940,425	47,596,233	45,613,430	13,434,640	541,381,413	786,270,899
TOOELE	64,450,113	47,742,999	6,786,094	44,860,124	51,606,795	57,108,740	65,188,540	337,743,405
UINTAH	44,476,922	0	72,291,458	323,177,537	20,121,326	49,580	306,084,937	766,201,760
UTAH	28,214,867	69,330,456	86,134,981	164,437,507	190,864,802	5,968,830	32,166,307	577,117,750
WASATCH	18,644,611	1,867,203	4,868,244	23,695,807	12,569,402	6,183,580	4,281,600	72,110,447
WASHINGTON	13,339,046	13,435	58,317,737	75,378,163	60,090,581	490,090	8,735,970	216,365,022
WAYNE	439,330	0	0	3,713,567	5,194,468	0	699,560	10,046,925
WEBER	10,653,688	42,145,995	35,821,187	95,843,030	100,606,529	1,000	45,929,500	331,000,929
STATEWIDE	640,104,250	529,491,480	1,057,255,760	4,892,910,463	1,908,781,130	1,709,085,385	2,573,002,815	13,310,631,283

NOTE: BASED UPON TC - 233A REPORTS FROM EACH COUNTY

SOURCE: UTAH STATE TAX COMMISSION, PROPERTY TAX DIVISION.

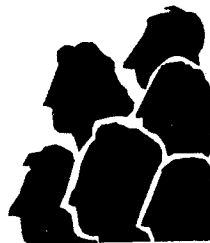
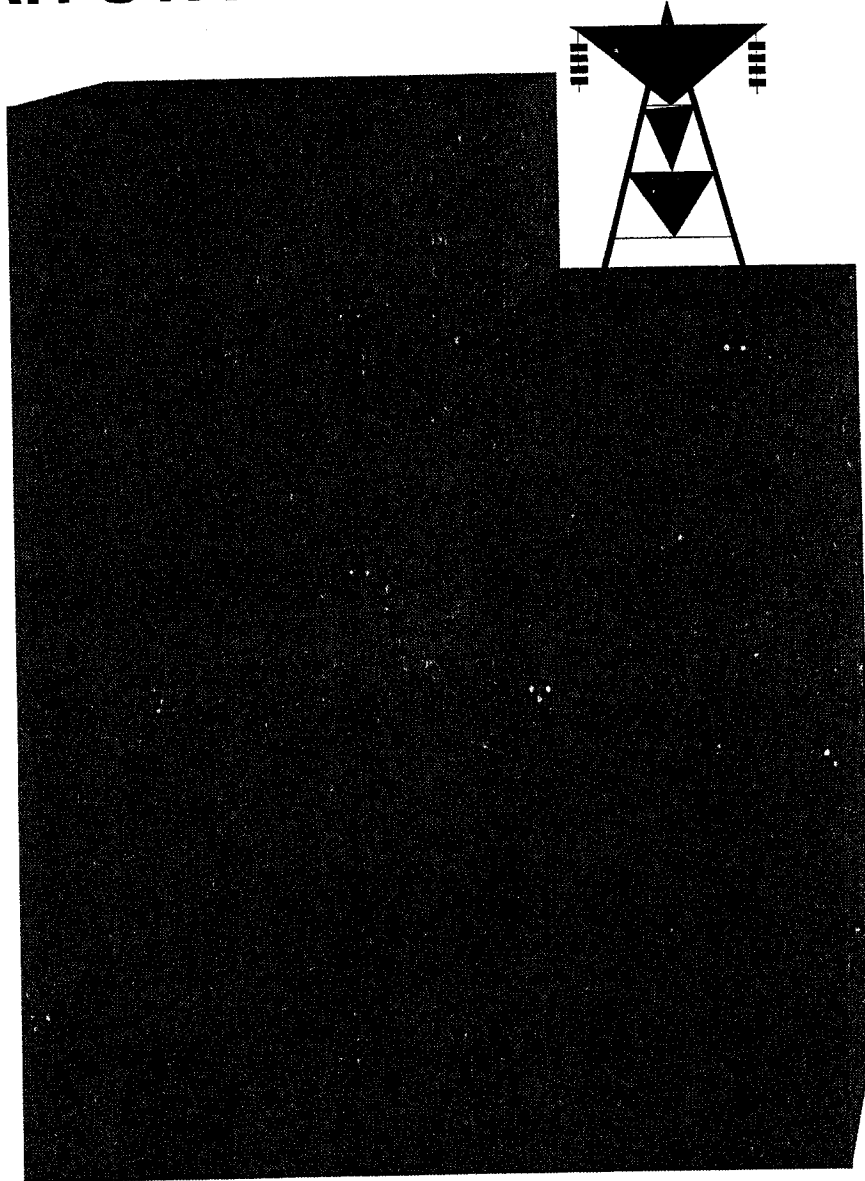
TABLE 5 - TOTAL TAXABLE VALUE OF ALL PROPERTY IN UTAH FOR 1998

COUNTY	TOTAL LAND AND BUILDINGS	PERSONAL PROPERTY	TOTAL LOCALLY ASSESSED	UTILITIES	MINES	TOTAL CENTRALLY ASSESSED	TOTAL OF LOCAL AND CENTRAL	FEE-IN-LIEU PROPERTY
BEAVER	197,003,751	7,930,984	204,934,735	137,181,921	13,349,270	150,531,191	355,465,926	25,794,070
BOX ELDER	1,104,013,846	337,373,962	1,441,387,808	268,869,438	27,275,560	296,144,998	1,737,532,806	181,171,886
CACHE	2,041,130,775	232,284,943	2,273,415,718	121,145,317	2,144,100	123,289,417	2,396,705,135	291,088,947
CARBON	447,069,476	40,001,967	487,071,443	173,533,734	358,220,592	531,754,326	1,018,825,769	95,372,146
DAGGETT	47,594,665	1,921,125	49,515,790	73,367,720	13,906,680	87,274,400	136,790,190	8,100,025
DAVIS	6,263,194,220	631,503,498	6,894,697,718	281,779,228	25,400,296	307,179,524	7,201,877,242	915,438,443
DUCHESNE	249,839,825	21,501,382	271,341,207	109,928,018	199,204,609	309,132,627	580,473,834	65,731,117
EMERY	127,450,197	11,422,122	138,872,319	1,169,936,127	140,884,963	1,310,821,090	1,449,693,409	34,050,315
GARFIELD	190,494,468	11,820,372	202,314,840	34,125,762	12,705,340	46,831,102	249,145,942	23,007,575
GRAND	334,970,870	19,784,511	354,755,381	98,298,767	36,434,617	134,733,384	489,488,765	36,703,495
IRON	1,051,675,808	113,383,504	1,165,059,312	188,562,859	6,220,755	194,783,614	1,359,842,926	115,219,117
JUAB	166,675,200	7,548,023	174,223,223	134,472,667	58,741,323	193,213,990	367,437,213	34,383,765
KANE	338,782,461	12,029,751	350,812,212	27,432,239	651,100	28,083,339	378,895,551	24,427,751
MILLARD	233,916,315	14,924,142	248,840,457	1,897,875,551	56,885,040	1,954,560,591	2,203,401,048	54,422,409
MORGAN	216,224,555	10,302,588	226,527,143	58,989,677	102,228,590	161,218,267	387,745,410	37,593,982
PIUTE	26,009,349	1,033,000	27,042,349	13,580,687	360,500	13,941,187	40,983,536	7,105,103
RICH	148,704,219	3,502,345	152,206,564	39,097,757	11,770,630	50,868,387	203,074,951	10,959,178
SALT LAKE	31,499,607,219	3,030,657,685	34,530,264,904	1,981,283,790	1,661,918,869	3,643,202,659	38,173,467,563	3,948,767,234
SAN JUAN	122,012,353	26,332,002	148,344,355	78,751,424	247,529,160	326,280,584	474,624,939	32,478,433
SANPETE	439,988,736	21,538,002	461,526,738	51,840,890	5,441,360	57,282,250	518,808,988	60,423,486
SEVIER	348,374,190	25,913,812	374,288,002	79,336,660	213,310,559	292,647,219	666,935,221	88,950,044
SUMMIT	4,880,069,867	105,349,013	4,985,418,880	231,454,846	554,816,053	786,270,899	5,771,689,779	195,564,917
TOOELE	759,750,527	149,022,314	908,772,841	215,446,125	122,297,280	337,743,405	1,246,516,246	140,058,802
UINTAH	374,604,837	53,346,296	427,951,133	460,067,243	306,134,517	766,201,760	1,194,152,893	95,297,311
UTAH	9,169,400,636	1,089,855,227	10,259,255,863	538,982,613	38,135,137	577,117,750	10,836,373,613	988,537,732
WASATCH	960,377,578	24,337,839	984,715,417	61,645,267	10,465,180	72,110,447	1,056,825,864	54,296,074
WASHINGTON	3,151,677,225	161,888,179	3,313,565,404	207,138,962	9,226,060	216,365,022	3,529,930,426	377,261,979
WAYNE	88,115,075	3,592,513	91,707,588	9,347,365	699,560	10,046,925	101,754,513	14,550,691
WEBER	4,454,105,776	484,122,992	4,938,228,768	285,070,429	45,930,500	331,000,929	5,269,229,697	792,406,325
STATEWIDE	69,432,834,019	6,654,224,093	76,087,058,112	9,028,543,083	4,282,088,200	13,310,631,283	89,397,689,395	8,749,162,352

BASED UPON TC - 233A OR TC - 233B DATA AS REFLECTED IN DETAIL TABLES 1 THROUGH 4

NOTE: UTAH STATE TAX COMMISSION, PROPERTY TAX DIVISION.

1996 ANNUAL STATISTICAL REPORT PROPERTY TAX DIVISION UTAH STATE TAX COMMISSION



**LOCAL, PERSONAL AND CENTRALLY ASSESSED PROPERTY
PREPARED BY RUDY GONZALES,
SENIOR RESEARCH ANALYST**

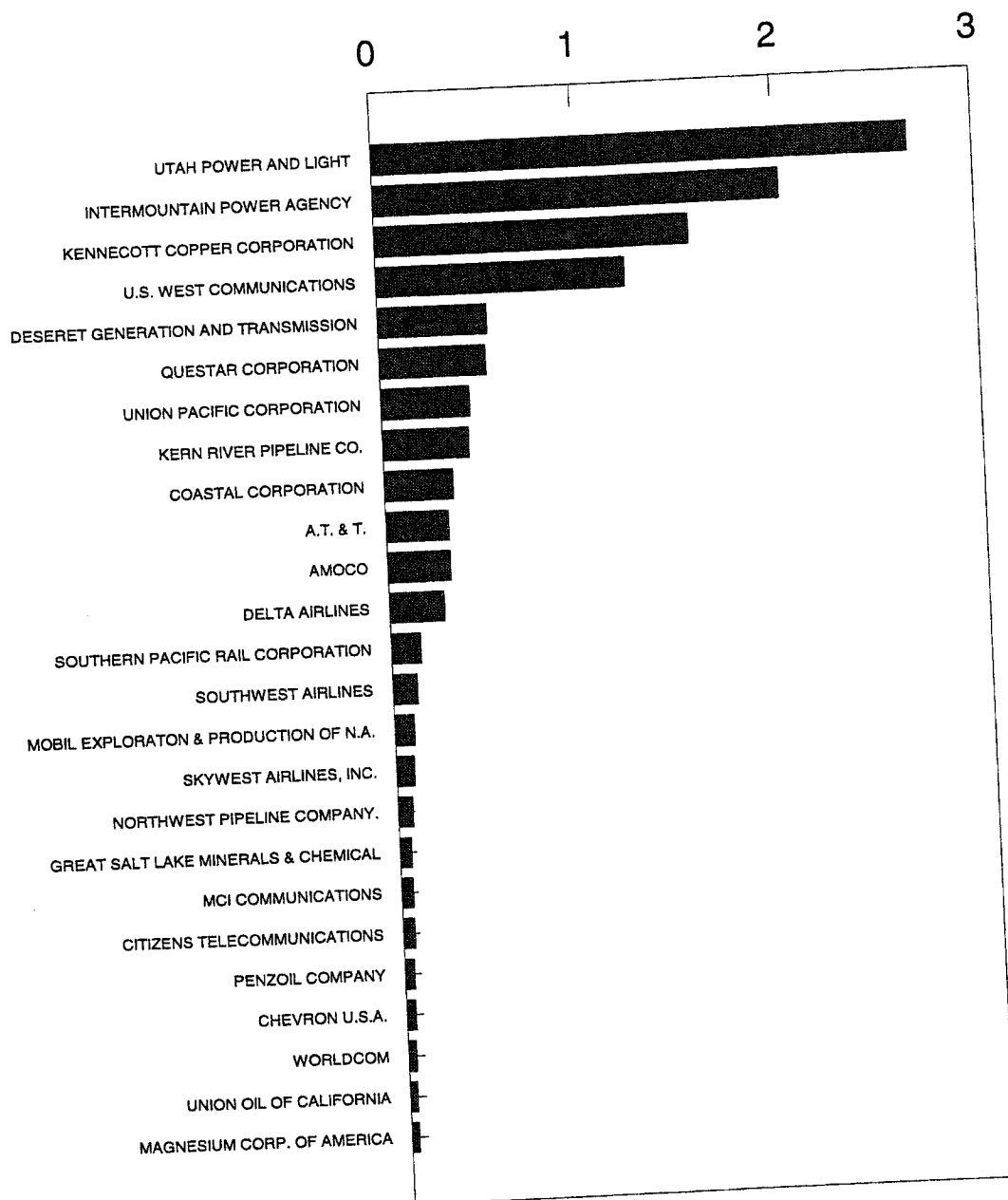
TABLE 15 - UTAH'S 25 LARGEST CENTRALLY ASSESSED COMPANIES
FOR 1996 RANKED FROM LARGES TO SMALLEST

<u>COMPANY NAME</u>	<u>SIC CODE</u>	<u>ECONOMIC ACTIVITY</u>
UTAH POWER AND LIGHT	4911	ELECTRIC SERVICE
INTERMOUNTAIN POWER AGENCY	4811	ELECTRIC SERVICE
KENNECOTT COPPER CORPORATION	4911	COPPER MINING
U.S. WEST COMMUNICATIONS	3331	COMMUNICATIONS
DESERET GENERATION AND TRANSMISSION	4911	ELECTRIC SERVICE
QUESTAR CORPORATION	2911	PETROLEUM PRODUCTION
UNION PACIFIC CORPORATION	4922	RAILROADS
KERN RIVER PIPELINE CO.	4011	NATURAL GAS
COASTAL CORPORATION	1211	COAL MINING
A.T. & T.	4811	COMMUNICATIONS
AMOCO	2911	PETROLEUM PRODUCTION
DELTA AIRLINES	4512	AIRLINES
SOUTHERN PACIFIC RAIL CORPORATION	4011	RAILROAD
SOUTHWEST AIRLINES	4512	AIRLINES
MOBIL EXPLORATON & PRODUCTION OF N.A.	2911	PETROLEUM PRODUCTION
SKYWEST AIRLINES, INC.	4512	AIRLINES
NORTHWEST PIPELINE COMPANY.	4922	NATURAL GAS
GREAT SALT LAKE MINERALS & CHEMICAL	1479	NONMETAL MINING
MCI COMMUNICATIONS	4911	COMMUNICATIONS
CITIZENS TELECOMMUNICATIONS	4911	COMMUNICATIONS
PENZOIL COMPANY	2911	PETROLEUM PRODUCTION
CHEVRON U.S.A.	2911	PETROLEUM PRODUCTION
WORLDCOM	3669	COMMUNICATIONS
UNION OIL OF CALIFORNIA	2911	PETROLEUM PRODUCTION
MAGNESIUM CORP. OF AMERICA	1499	METAL MINING

SIC CODE: FOUR DIGIT STANDARD INDUSTRIAL CLASSIFICATION .

SOURCE: UTAH STATE TAX COMMISSION, PROPERTY TAX DIVISION.

GRAPH 36 - TAXABLE VALUE FOR UTAH'S 25 LARGEST CENTRALLY ASSESSED COMPANIES FOR 1996



TAXABLE VALUE IN BILLIONS
 SOURCE: UTAH STATE TAX COMMISSION, PROPERTY TAX DIVISION.

**TABLE 16 - THE LARGEST CENTRALLY ASSESSED COMPANIES
FOR EACH OF UTAH'S COUNTIES FOR THE 1996
ASSESSMENT YEAR**

COUNTY NAME	COMPANY NAME
BEAVER	PACIFICORP(Utah Power & Light)
BOX ELDER	PACIFICORP(Utah Power & Light)
CACHE	U.S. WEST COMMUNICATIONS
CARBON	PACIFICORP(Utah Power & Light)
DAGGETT	QUESTAR CORPORATION
DAVIS	U.S. WEST COMMUNICATIONS
DUCHESNE	PENNZOIL COMPANY
EMERY	PACIFICORP(Utah Power & Light)
GARFIELD	SOUTH CENTRAL UTAH TELEPHONE
GRAND	PACIFICORP(Utah Power & Light)
IRON	KERN RIVER PIPELINE CO.
JUAB	KERN RIVER PIPELINE CO.
KANE	GARKANE POWER ASSOC.
MILLARD	INTERMOUNTAIN POWER AGENCY
MORGAN	KERN RIVER PIPELINE CO.
PIUTE	PACIFICORP(Utah Power & Light)
RICH	QUESTAR CORPORATION
SALT LAKE	KENNECOTT CORP.
SAN JUAN	MOBIL
SANPETE	PACIFICORP(Utah Power & Light)
SEVIER	COASTAL CORPORATION
SUMMIT	AMOCO
TOOELE	UNION PACIFIC CORPORATION
UNITAH	DESERET GENERATION AND TRANS.
UTAH	U.S. WEST COMMUNICATIONS
WASATCH	DESERET GENERATION AND TRANS.
WASHINGTON	PACIFICORP(Utah Power & Light)
WAYNE	GARKANE POWER ASSOC.
WEBER	PACIFICORP(Utah Power & Light)

SOURCE: UTAH STATE TAX COMMISSION, PROPERTY TAX
DIVISION.

Emery County
Exhibit: JRM-3
PSCU Docket No. 98-2035-04
Witness: J. Robert Malko

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Section 59-2-1359.	Collection of taxes — Removal or destruction of property.
	Proceedings before commission.
59-2-1360.	Notice of findings — Proceedings in district court — Injunction — Determining taxes due — Security during proceedings.
59-2-1361.	Certified copy of tax sale record prima facie evidence of regularity.
59-2-1362.	Misnomer or mistake as to ownership does not affect sale.
59-2-1363.	Record of deeds issued — Acknowledgement.
59-2-1364.	Payment to taxing entities by county treasurer — Investment of proceeds — Transfer and receipt of money between taxing entities.
59-2-1365.	Apportionment of redemption or assignment money.
59-2-1366.	Duty of county treasurer.
59-2-1367.	Delict of county treasurer — Penalty.
59-2-1368.	Duty of county auditor — Report to state treasurer.
59-2-1369.	State auditor and state treasurer to receive duplicate copies.
59-2-1370.	Delict of county auditor — Penalty.
59-2-1371.	Auditor duties — Final settlement with treasurer — Delinquent Tax Control Account.
59-2-1372.	

Part 14

Miscellaneous Provisions [Repealed]

59-2-1401 to 59-2-1416. Repealed.

PART 1

GENERAL PROVISIONS

59-2-101. Short title.

This chapter is known as the "Property Tax Act."

History: C. 1953, 59-2-101, enacted by L. 1987, ch. 4, § 48.

Tax Elimination Committee. — Laws 1996, ch. 315, §§ 1 to 4 establish the Tax Elimination Blue Ribbon Committee, consisting of seven members each of the House and Senate. The committee is to "develop a plan to eliminate or provide for a substantial reduction in state and local government reliance on the property tax" and report its plan to the Revenue and Taxation Interim Committee before December 31, 1996. Section 9 of the act repeals the act on December 31, 1996.

59-2-102. Definitions.

As used in this chapter and title:

- (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.
- (2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.
- (3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.
- (4) "Airline" means any air carrier operating interstate routes on a scheduled basis which offers to fly passengers

or cargo on the basis of available capacity on regularly scheduled routes.

(5) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(6) "Certified revenue levy" means a property tax levy that provides the same amount of ad valorem property tax revenue as was collected for the prior year, plus new growth, but exclusive of revenue from collections from redemptions, interest, and penalties.

(7) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles which are:

(i) especially constructed for towing or wrecking, and which are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public or religious school or school activities.

(8) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property which is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(9) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(10) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage

tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(11) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(12) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(13) "Improvements" includes all buildings, structures, fixtures, fences, and improvements erected upon or affixed to the land, whether the title has been acquired to the land or not.

(14) "Intangible property:"

(a) means property that is capable of private ownership separate from tangible property; and

(b) includes:

(i) moneys;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents.

(15) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(16) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(17) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(18) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(19) "Personal property" includes:

(a) every class of property as defined in Subsection (19) which is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries; and

(d) livestock which, for the purposes of the exemption provided under Section 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.

(20) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(21) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold

or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(22) "Real estate or property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(23) "Residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence. It does not include property used for transient residential use or condominiums used in rental pools.

(24) (a) "State assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semi-trailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semi-trailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (7)(c) as county-assessed commercial vehicles.

(25) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(26) "Taxing entity" means any county, city, town, school district, special taxing district, or any other political subdivision of the state with the authority to levy a tax on property.

(27) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

History: C. 1953, 59-2-102, enacted by L. 1987, ch. 4, § 49; 1987, ch. 93, § 1; 1988, ch. 3, § 90; 1989, ch. 204, § 1; 1990, ch. 41, § 1; 1990, ch. 212, § 1; 1991, ch. 263, § 2; 1992, ch. 1, § 198; 1992, ch. 223, § 1; 1992, ch. 237, § 1; 1995, ch. 271, § 8; 1996, ch. 170, § 55; 1997, ch. 360, § 9; 1998, ch. 264, § 2; 1998, ch. 290, § 1.

Amendment Notes. — The 1995 amendment, effective July 1, 1995, added Subsection (6) and redesignated the following subsections accordingly.

The 1996 amendment, effective July 1, 1996, in the definition of "public utility," deleted "common carrier" from the list of entities in the first sentence and deleted "warehousemen" from the exception in the second sentence.

The 1997 amendment, effective January 1, 1997, added Subsections (7) and (24) redesignating the other subsections accordingly and making one related change in Subsection (19)(a).

The 1998 amendment by ch. 290, effective retrospectively to January 1, 1998, deleted "and includes the adjustment for intangible values under Sections 59-2-304 and 59-2-201 for real property assessed by the county assessor or the commission" at the end of the first sentence in Subsection (9); substituted Subsection (14) for former Subsection (14) which read "intangible property" includes various fees, services,

closing costs, and brokerage commissions related to a real property sales transaction"; divided Subsection (20), adding the (a) and (b) designations; made a minor stylistic change in Subsection (20)(a); in Subsection (20)(b) added the term "property" and substituted "intangible property as defined in this section" for "moneys, credits, bonds, stocks, representative property, franchises, goodwill, copyrights, patents, or other intangibles."

The 1998 amendment by ch. 264, effective May 4, 1998, deleted the former second and third sentences of Subsection (13) defining "improvements" to also include a mobile home located on land owned by mobile home owner and "land owned" to include a vendee in possession of the land under a land contract.

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

Severability Clauses. — Laws 1990, ch. 212, which amended the definition of "fair market value," provides in § 45 that if any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act is to be given effect without the invalid provision or application.

Retrospective Operation. — Laws 1995, ch. 271, § 21 provides that this section has retrospective operation to January 1, 1995.

Cross-References. — Railroad rolling stock as personalty, Utah Const., Art. XII, § 14.

NOTES TO DECISIONS

ANALYSIS

- Constitutionality.
- Escaped property.
- Fair market value.
- Improvement.
- Intangibles.
- Real estate.
- Cited.

Constitutionality.

The property tax exemption available only for residential property used as a primary residence, Subsection (23) of this section and 59-2-103(2), does not violate Article III, Sec. 2 of the Utah Constitution. *Dennis v. Summit County*, 933 P.2d 387 (Utah 1997).

Escaped property.

Property that received a tax exemption due to a mistake by the county was not "escaped property" under the statutory definition, thus preventing the county from retroactively assessing additional taxes on the property. *First Sec. Mtg. Co. v. Salt Lake County*, 866 P.2d 1250 (Utah Ct. App. 1993).

Fair market value.

A stock purchaser is generally not a "knowledgeable buyer" as required by the definition of "fair market value" in this section. *Utah Ass'n of Counties v. Tax Comm'n ex rel. MCI Telecommunications Corp.*, 895 P.2d 825 (Utah 1995).

Improvement.

The test of whether property is an "improvement" to real property for tax purposes is whether it is "erected upon or affixed to the land." *Crossroads Plaza Ass'n v. Pratt*, 912 P.2d 961 (Utah 1996).

It is clear from the wording of "improvements" (Subsection (13)) that the legislature contemplated that improvements might be made to property in which types of interest other than title may be held and since the legislature did not specifically exclude "leased property" from those nontitle

lands, improvements to leased property are included in this definition. *Crossroads Plaza Ass'n v. Pratt*, 912 P.2d 961 (Utah 1996).

Intangibles.

Customized computer software is considered intangible property to be exempted from taxation. *Cache County v. State Tax Comm'n*, 922 P.2d 758 (Utah 1996).

Real estate.

An engine and boiler built into a brick foundation and firmly affixed by bolts leaded down and used in underground workings of a mine are included in term "real estate." *Mammoth Mining Co. v. Juab County*, 10 Utah 232, 37 P. 348 (1894).

Cited in *Questar Pipeline Co. v. Utah State Tax Comm'n*, 850 P.2d 1175 (Utah 1993); *Utah Ass'n of Counties v. Tax Comm'n ex rel. AT & T Co.*, 895 P.2d 819 (Utah 1995).

COLLATERAL REFERENCES

Brigham Young Law Review. — Software Taxation: A Critical Reevaluation of the Notion of Intangibility, 1980 B.Y.U. L. Rev. 859.

Am. Jur. 2d. — 71 Am. Jur. 2d State and Local Taxation §§ 1, 2.

C.J.S. — 84 C.J.S. Taxation § 66.

59-2-103. Rate of assessment of property — Residential property.

(1) All tangible taxable property shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

(2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2, Utah Constitution.

(3) No more than one acre of land per residential unit may qualify for the residential exemption.

History: C. 1953, 59-2-103, enacted by L. 1987, ch. 4, § 50; 1988, ch. 3, § 91; 1991, ch. 263, § 3; 1994, ch. 310, § 2; 1995, ch. 275, § 1.

Amendment Notes. — The 1994 amendment, effective January 1, 1994, in Subsection (2), substituted "January 1, 1994" for "January 1, 1991," deleted "until December 31, 1991, the fair market value of residential property shall be reduced by 29.75%, and beginning January 1, 1992, and every year thereafter" before "the fair market," and substituted "32%" for "29.50%."

The 1995 amendment, effective May 1, 1995, in Subsection (2), substituted "1995" for "1994," substituted "45%" for "32%," and made a stylistic change.

Property Tax Task Force. — Laws 1995, ch. 162, § 1 creates the Property Tax Task Force, to consist of thirteen legislators; the task force has essentially the same composition and duties as the task force created by former § 59-2-106, enacted in 1994 and repealed in 1995. The task force is to "address issues facing the property tax system including: (a) appraisal of property; (b) measurement of assessment quality; (c) factoring and other methods of valuation adjustments; (d) property tax exemptions; and (e) certified rate calculations." The task force is to report to the Revenue and Taxation Interim Committee on or before the December 1995 interim committee meeting. It will be funded by a \$41,500 appropriation from the General Fund. Section 5 of the act repeals the act on December 31, 1995.

Cross-References. — Constitutional taxation provisions generally, Utah Const., Art. XIII.