

David F. Crabtree , #A5459  
Deseret Generation & Transmission Co-operative  
5295 South 300 West, Suite 500  
Murray, Utah 84107  
Telephone: 801-892-6522  
Attorney for Deseret and its Members

---

### 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
	)	RESPONSE OF DESERET AND
	)	ITS MEMBERS TO ISSUES
	)	MEMORANDUM FILED BY
	)	APPLICANTS

---

Deseret Generation & Transmission Co-operative (“Deseret”) and its Member cooperatives (“Members”) submit this memorandum in response to the Applicants’ Issues Memorandum dated April 12, 1999. The Applicants’ Issues Memorandum claims that issues relating to “competition” as raised by Deseret and its Members should not be considered by this Commission, at least insofar as those issues touch on possible application of federal antitrust law. The Applicants’ Issues Memorandum also asserts that two other issues raised by Deseret and its Members (Hunter II costs and Certificate Transfer issues) are matters on which Deseret and its Members should bear the burden of proof. The Applicants have not challenged the principal issues identified by Deseret

(Impacts on Rural Utah and Reliability Issues) nor have the Applicants suggested that Deseret or its Members should bear the burden of proof with respect to the same.

**Hunter II and Certificated Service Areas.** Deseret and its Members intend to introduce evidence explaining their concerns on the possible effects of the proposed Merger relating to Hunter II plant costs and disparate or inappropriate diminishment of service within service areas currently certificated to PacifiCorp where Deseret's Members could provide equivalent or better service after the proposed Merger. There appears to be little value in debating which party bears the "burden" with respect to such issues. The Applicants clearly have the burden of demonstrating to the Commission that the proposed Scottish Power acquisition is in the "public interest," including the impact of the merger on these and other issues. Deseret and its Members accept the burden of filing testimony to explain their concerns and issues in connection with Hunter II costs and certificated service areas, as well as their proposals for dealing with the same in the context of the proposed Merger.

**Competition.** Deseret and its Members submit that the "anti-competitive issues" they have raised are relevant to this proceeding. The Applicants point to the FTC's actions under the Hart-Scott-Rodino Act as proof that competition, at least as it touches on federal anti-trust policy, is not an issue. The issues raised by Deseret and its Members, however, relate to in-state division of utility services and interactions among PacifiCorp, rural electric cooperatives and municipal utilities, especially in the rural areas of the State.

Proper interaction and healthy and efficient allocation of utility service responsibilities among all electric utilities serving in rural Utah are important to the continued well-being of rural Utahns. The Applicants have acknowledged that impacts on rural Utah are directly relevant to this proceeding. The potential for anti-competitive or unfair effects of the merger among those utilities serving in rural areas within Utah are largely a subset of those issues. PacifiCorp's dominance in most of the State, its control over most of the infrastructure necessary for providing adequate and reliable electric services, and its management of facilities jointly owned by it and public power utilities all provide PacifiCorp with unique and powerful means of using, exploiting and manipulating facilities to its advantage and to the disadvantage of rural utilities and their customers. Added strength, changes in attitude and control, different corporate philosophies, additional pressure to reduce costs and services or increase corporate profits and other potential consequences of the merger may affect, change and intensify these types of issues and impacts.

Deseret and its Members, particularly as public utilities whose customers' best interests are within the direct regulatory purview of this Commission, are entitled to present to this Commission their concerns on all such issues and to offer proposed solutions. The Commission should reject as overbroad and inappropriate Applicants' suggestion that all issues relative to "competition" in the broad sense of the word are outside the scope of these proceedings.

DATED this \_\_\_\_\_ day of April, 1999.

---

David F. Crabtree,  
Counsel for Deseret and its Members

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this \_\_\_\_ day of April, 1999, to the following:

Edward Hunter  
John Eriksson  
STOEL RIVES  
201 South Main Street, Suite 1100  
Salt Lake City, UT 84111

Brian W. Burnett  
CALLISTER NEBEKER &  
MCCULLOUGH  
10 East South Temple, #800  
Salt Lake City, UT 84133

Michael Ginsberg  
ASSISTANT ATTORNEY GENERAL  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111

Douglas C. Tingey  
ASSISTANT ATTORNEY GENERAL  
Committee of Consumer Services  
160 East 300 South, 5<sup>th</sup> Floor  
Salt Lake City, UT 84111

Daniel Moquin  
ASSISTANT ATTORNEY GENERAL  
1594 West North Temple, Suite 300  
Salt Lake City, UT 84116

F. Robert Reeder  
William J. Evans  
PARSONS BEHLE & LATIMER  
201 South Main Street, Suite 1800  
P.O. Box 45898  
Salt Lake City, UT 84145-0898

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

Peter J. Mattheis  
Matthew J. Jones  
BRICKFIELD BURCHETTE & RITTS  
1025 Thomas Jefferson Street, N.W.  
800 West Tower  
Washington, D.C. 20007

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

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

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

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

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

Roger O. Tew  
60 South 600 East, Suite 200

Salt Lake City, UT 84102  
Steven W. Allred  
Salt Lake City Law Department  
451 S. State, Suite 505  
Salt Lake City, UT 84111

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