

Edward A. Hunter  
John M. Eriksson  
STOEL RIVES LLP  
201 South Main Street, Suite 1100  
Salt Lake City, Utah 84111  
(801) 578-6936 Telephone  
(801) 578-6999 Facsimile

George M. Galloway  
STOEL RIVES LLP  
900 SW Fifth Ave., Suite 2300  
Portland, Oregon 97204-1268  
Telephone: (503) 294-9306  
Facsimile: (503) 220-2480

Attorneys for PacifiCorp

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Application of PacifiCorp : DOCKET NO. 99-035-10  
for Approval of Its Proposed Electric Rate :  
Schedules and Electric Service Regulations : PETITION OF PACIFICORP  
: FOR RECONSIDERATION  
: OF REPORT AND ORDER  
:

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PacifiCorp, dba Utah Power & Light Company (“PacifiCorp” or “Company”), pursuant to Utah Code Ann. §§ 54-7-15 and 63-46b-13, and Utah Admin. Code R746-100-11.F, hereby seeks reconsideration of the Commission’s Report and Order of May 24, 2000 (“Order”) with regard to the issues set forth hereinafter.

**I. COMPUTER SOFTWARE WRITE-DOWN**

The Commission has refused, for the second time, to allow recovery of any portion of the Company’s computer software write-down costs. The Company requests that on reconsideration the Commission adopt the Company’s proposal and include one-third of those costs in test year expenses in this case.

**A. The Commission’s disallowance of computer software write-down costs is an unexplained deviation from its prior practice.**

In Docket No. 97-035-01, the Company sought recovery of one-third of the costs associated with writing down computer software. In its March 4, 1999 Order, the Commission denied recovery of the computer software write-down

costs on the grounds that, because “the old software (“Legacy”) was in use throughout the test year” and “the new software (“SAP”) was not yet in service,” “the benefits new programs make possible” were not present in that test period and thus, the inclusion of the write-down costs would “mismatch costs and benefits.” *Id.* at 34. Based on its April 13, 1999 Order on Requests for Reconsideration, it was the Commission’s intent that the recovery of the “post-test-year” adjustment costs “should begin coincident with ratepayer benefit.” *Id.* at 3.

In its Order in this docket, the Commission purports to apply that same standard and, based on its conclusion that “circumstances have not changed,” again denies recovery of any portion of the software write-down costs. *Id.* at 65. However, as pointed out in the Dissenting Statement of Commissioner Jones, the Commission’s decision is inconsistent with the policy it adopted in the prior docket. *Id.* at 90.

The evidence establishes that SAP was “in service” and providing benefits during the test period. The evidence also establishes that SAP has replaced Legacy for all functions except historic data inquiry, which represents one percent or less of Legacy’s original functions. *Tr.* at 438. The evidence shows that circumstances have changed and the Company has now met the Commission’s prior standard for recovery of the computer software write-down costs. On reconsideration, the Commission should recognize that the Company has met the standard it established in the prior docket and allow recovery of those costs.

**B. The Commission acted arbitrarily and capriciously by purporting to postpone, rather than deny, recovery of costs while adopting a standard that would preclude recovery.**

In its Petition for Rehearing in Docket No. 97-035-01, the Company expressed concern that the Commission’s test period rules could be used to deny it any opportunity to recover “post-test-year adjustment” costs, like the computer software write-down costs. The Commission’s new standard provides a case study in how that can occur.

Under the new standard, the Company must now apparently show that the benefits of SAP are greater than the costs of Legacy in a test period in which SAP is fully implemented and Legacy is no longer in use. However, if Legacy is fully replaced by SAP in a test period in which the other requirements are not satisfied, the Company could permanently lose any opportunity to recover those software write-down costs, much like it has now permanently lost its opportunity to recover Solar 2 costs.

In its prior discussions of this and other “post-test-year” issues, the Commission has stated that its disallowance of those costs reflects a deferral rather than a denial of recovery. However, the likely result of the Commission’s decision is to deny the Company the opportunity for full recovery of those costs. The Commission’s adoption of a standard which is inconsistent with its expressed intention to defer rather than to deny recovery was arbitrary and capricious.

## **II. BUSINESS POSTAGE**

Along with the bills mailed to its electric customers, PacifiCorp includes a newsletter, and occasionally also includes advertising materials for non-regulated products and services. Despite the fact that the inclusion of those materials does not impose any additional costs on PacifiCorp’s electric customers, the Commission adopted a Division proposal to disallow approximately fifty percent of the postage cost of mailing utility bills. The Company requests that on reconsideration, the Commission include all the Company’s postage costs in the test period revenue requirement.

**A. The Commission lacked authority to deny recovery of PacifiCorp’s reasonably incurred test period postage expenses and the disallowance of those costs was confiscatory.**

No party challenged the fact that PacifiCorp’s test period postage costs were actual, reasonable and necessary expenses of providing service to electric customers. Similarly, no party challenged the fact that the inclusion of advertising and newsletters in the billing envelopes did not increase test period postage costs. Notwithstanding those facts, the Commission denied recovery of approximately one half of those test period postage costs.

The Commission has an obligation to provide PacifiCorp with an opportunity to recover expenses reasonably incurred to provide service to customers. *Missouri ex rel. S.W. Bell*, 262 U.S. at 289. The Commission’s action disallowing PacifiCorp’s costs is contrary to that duty and without authority and has resulted in the confiscation of PacifiCorp’s property in violation of its rights under the Fifth and Fourteenth Amendments to the U.S. Constitution and Article 1, Section 22 of the Utah Constitution.

**B. There is no substantial evidence to support the Commission’s conclusions that fifty percent of the contents of billing envelopes during the test period could be classified as unregulated and that a 50-50 split of postage costs is appropriate.**

The Division's witness on this issue testified that postage costs should be shared between "regulated and non-regulated businesses" on the basis of a "50-50 split" because that reflected the ratio of bills to non-regulated stuffers and newsletters. Ex. DPU 4 at 15. However, the Division witness also testified that he had not done a study to determine that ratio and that "the dollars involved in postage expense don't justify the effort of making an exact determination of the split between promotional and non-promotional columns each year." Ex. DPU 4 at 15. Indeed, he testified that he had used some newsletters from the last rate case as the basis for his conclusions. Ex. DPU at 15. That is not substantial evidence.

PacifiCorp has performed a study of the content of the test period bill stuffers and newsletters. Based on that study, approximately 80% of those test period bill stuffers and newsletters were regulated material. Ex. UP&L 11R at 23.

The Commission lacks an adequate evidentiary basis for its conclusion regarding the ratio between regulated and unregulated materials in the test period. The Commission also lacks an adequate evidentiary basis for its additional conclusion that a 50-50 split of postage costs is appropriate. On rehearing, the Commission should reject the Division's proposed adjustment.

### **III. NORMALIZATION OF FIRM RETAIL PEAK LOADS**

The System Generation ("SG") and System Energy ("SE") factors are used to allocate production and transmission costs. The Commission has concluded that the 1998 SC and SG factors are anomalous because of an increase in the number of system winter peaks. Based on that conclusion, the Commission has adopted the Division's proposal to normalize the test year by replacing the 1998 SC factor with the 1997 SC factor increased by the historic growth rate for the period from 1992-1996.

The Company requests that on reconsideration, the Commission reject the Division's adjustment.

**A. There was no substantial evidence on which the Commission could base its normalization adjustment.**

In the Order, the Commission concluded that the occurrence in 1998 of four winter peaks was an anomaly. Order

at 11. Based on that conclusion, the Commission decided that it was appropriate to normalize the SC factor to eliminate the impact of that anomaly. However, there is no substantial evidence on this record to establish that there is even a logical connection between the normalization adjustment and the winter peak anomaly, much less that the normalization adjustment corrects that anomaly.

The normalization adjustment uses temperature adjusted 1997 loads as the basis for the calculation of a test period SC factor without making the necessary matching temperature adjustments to revenue and power costs. The result is a test period with artificially reduced loads and inflated revenues. Ex. UP&L 10R at 8. The normalization adjustment is further skewed by the use of a growth factor which incorporates the impact of the hydro adjustment, an allocation adjustment rejected by this Commission. Ex. UP&L 10 at 8. The actual impact of the normalization adjustment is the creation of an abnormal test period, not the correction of a winter peak anomaly.

The lack of a correlation between the normalization adjustment and the winter peak anomaly is established by the fact that the dollar impact of a change from two winter peaks, the situation in 1997 and 1998, to four winter peaks is approximately \$2 million. Tr. at 2290. In contrast, the adjustment adopted by the Commission reduces the Company's revenue requirement by approximately \$3.7 million. Order at 10.

There is an inadequate evidentiary basis to support the Commission's adjustment. The adjustment overstates the impact of the purported anomaly and on reconsideration should be rejected by the Commission.

#### **IV. ACCOUNT 903 ALLOCATION FACTORS**

The Commission has adopted a Division proposal to use the System Overheads ("SO") factor to allocate costs charged to FERC Account 903. On rehearing, the Company requests that the Commission allocate those costs using the CN factor.

**A. There is no substantial evidence to support the Commission's conclusions that there has been a sudden increase in the customer service costs apportioned to Utah.**

In the Order, the Commission explained that the context within which it examined this issue was the "sudden increase in costs apportioned to Utah for the customer service function." Order at 15. However, the evidence in this case shows that when all customer service accounts, rather than just Account 903, are considered there has not been any

sudden, unexplained shift in customer service costs between Utah and other jurisdictions. Ex. UP&L 2.8 R. Utah's share of total company customer service costs did not change markedly from 1994 through 1998. The Utah share of those costs was 37 percent in 1994 and it has increased to approximately 40 percent in 1998, which closely approximates the percentage of the Company's customers who reside in Utah. Ex. UP&L 2R at 12. The evidence establishes that on a real dollar basis the customer service function costs apportioned to Utah have declined from \$17.9 million in 1994 to \$16.6 million in the test period. Tr. at 2309. There is no substantial evidence to support the Commission's conclusion.

**B. The Commission's decision to adopt the SO allocation factor denies PacifiCorp the opportunity to recover its reasonable and necessary customer service expenses and is confiscatory.**

Based on its erroneous conclusion that there has been a sudden cost shift, the Commission decided that it could maintain the historical pattern of customer service cost apportionment by adopting the SO allocation factor. Order at 15. However, the Commission's decision actually reduces the Utah allocated share of PacifiCorp's customer service expenses below historical levels. Ex. UP&L 2.8R.

That illustrates the problem with assigning customer service costs on a basis other than customer count. Customer service costs are driven by the requirement to provide each customer with certain basis services which are independent of actual usage. Thus, an allocation of customer costs based on customer count is equitable and consistent with the Commission's allocation principles. Ex. UP&L 2 at 17.

The Commission's decision denies the Company an opportunity to recover its reasonable costs of providing service to customers and is confiscatory.

**V. NET POWER COST ADJUSTMENTS**

The Commission's decision to accept certain adjustments to the Company's net power costs was arbitrary and capricious and contrary to UCA 63-46b-16(4)(h)(iii).

It has long been the Commission's practice to rely upon normalized data in computing net power costs because the use of normalized data insulates customers from short-term market fluctuations. Ex. CCS 6 at p. 7.

In this proceeding, the Committee proposed a partial and manifestly opportunistic departure from the use of normalized data. Specifically, it proposed the use of actual prices, but normalized volumes, for non-firm sales and

purchases and the use of actual volumes, actual sale prices but normalized purchase prices for short-term firm transactions.

The Commission's Order reflects a profound misunderstanding of the parties' positions in respect to these adjustments and fails to reasonably explain its departure from its past practice. Specifically:

1. At page 27, the Order describes the Committee/Division adjustment as follows: " Actual market prices for non-firm (secondary) and short-term firm sales and *purchases* are used rather than those the Company terms as normalized prices". [Emphasis added]. Later on in the Order, in respect to short-term firm sales and purchases, the Commission states: " Use of actual prices for short-term firm sales and purchases follows the same logic expressed with respect to prices of non-firm sales and purchases, discussed previously". Order at p. 32. And, at page 33 of the Order, the Commission states, in respect to short-term firm transactions, " As we have previously discussed, we find it appropriate to use actual monthly prices". All of these statements fail to recognize that the Committee proposed and the Commission adopted the use of *normalized* prices for short-term firm purchases. These erroneous references permit the Commission to conveniently characterize the choice before it as between the use of actual data and the use of normalized data and to conclude that normalized data is "speculative", whereas actual data is reliable and consistent with the Commission's "preference for the use of historic test years". If actual data is indeed inherently more reliable, nowhere does the Order justify the singular reliance on normalized prices in respect to short-term firm purchases. To the contrary, there is ample evidence as to why the adjustments that were made to actual short-term firm purchase prices were unreasonable. *See* PacifiCorp Post-Hearing Brief at pp.10 and 11.

2. At page 30 of the Order, the Commission wrote:

"[t]he Company did not show that 1998 was an abnormal year for market prices,

thus a departure from the use of actual prices is not justified; the Company offered no compelling evidence demonstrating that the prices generated by the MCP model were reasonable for ratemaking purposes; actual information is

readily available, thus reliance upon information developed by a model is

unnecessary; and, consistent with Commission preference for historical test years, actual information is known and measurable whereas modeling results are speculative and uncertain."

The foregoing passage would suggest that the Commission has historically preferred actual data in the use of calculating net power costs and that the Company bore a burden of demonstrating that normalized data is preferable. If this in indeed Commission policy, it is a distinct departure from historic Commission policy. It is not the Company that should have been required to provide "compelling evidence" as to why a departure from the use of actual data is appropriate, but rather the Commission that should have justified a departure from its past policy of preferring normalized data.

3. On page 30 of the Order, the Commission cogently explains why the Company believes that it is inappropriate to pick and choose between actual prices and normalized volumes because "all net power cost items are interrelated and have a corresponding impact on other inputs". The Commission then goes on to erroneously state that the Company took the position that it is only appropriate to use actual information when a net power cost balancing account is used to set customer prices.

The Company did not oppose the use of all actual data in this case and never took the position that it was only appropriate to use actual data in the context of an energy balancing account. *See PacifiCorp's Post-Hearing Brief at p.13.* The Commission never explains why it is appropriate to mix and match normalized and actual data. It chooses instead to justify its actions by flogging the Company for a position that it never took. Lest there be no misunderstanding, if it is indeed the Commission's preference to use actual data in computing net power costs, PacifiCorp would not oppose recomputation of its Utah revenue requirement on that basis.

## **VI. FORMAT OF THE PRODUCTION DISPATCH MODEL**

The Order requires that the Company provide a Microsoft Excel version of the PD/Mac model prior to the next general rate case. The Order also provides for an evaluation of alternative approaches to the normalization of net power costs.

Despite the Commission's apparent conclusion that the creation of the new model is an easy task, PacifiCorp

believes that it will involve expense and effort which may be unnecessary based on the evaluation ordered by the Commission.

Therefore, PacifiCorp requests that the Commission await the results of the evaluation before it orders the creation of the Excel version of the model.

### **CONCLUSION**

PacifiCorp has been substantially prejudiced by the foregoing errors in the Commission's Order. The Commission should grant rehearing or reconsideration and correct the errors in its Order.

Respectfully submitted this day of June, 2000.

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Edward A. Hunter  
STOEL RIVES LLP  
Attorneys for PacifiCorp dba Utah  
Power & Light Company

### **CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing PETITION FOR RECONSIDERATION AND CLARIFICATION to be served upon the following persons by mailing a true and correct copy of the same, postage prepaid, to the following on the 13th day of June, 2000.

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

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

Doug Tingey  
Assistant Attorney General  
Committee of Consumer Service  
160 East 300 South, 5th Floor

Salt Lake City, UT 84111

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

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

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

Lee R. Brown  
Vice President, Contracts, Human Resources  
Public & Government Affairs  
238 North 2200 West  
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  
Land and Water Fund of the Rockies  
2260 Baseline, Suite 200  
Boulder, CO 80302

Jeff Burks  
Office of Energy and Resource Planning  
Utah Department of Natural Resources  
1594 W.North Temple, Suite 200  
Salt Lake City, UT 84114

Betsy Wolf  
SLCAP/CUC  
764 South 200 West  
Salt Lake City, Utah 84101

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