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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of PacifiCorp for an Increase in its Rates and Charges	:	Docket No. 01-035-01
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In the Matter of the Application of PacifiCorp for Approval of its Proposed Electric Service Schedule	:	Docket No. 01-035-23
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	:	MEMORANDUM IN OPPOSITION
	:	TO PETITION BY COMMITTEE
	:	OF CONSUMER SERVICES
	:	FOR REVIEW AND
	:	RECONSIDERATION

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On November 23, 2001, the Committee of Consumer Services (“Committee”) filed with the Commission a Petition for Review and Reconsideration of its November 2, 2001 Order on Refund issued in Docket No. 01-035-01 (“Rate Case Order”) and its November 2, 2001 Order issued in Docket No. 01-035-23. PacifiCorp, doing business as Utah Power & Light Company (“Company or PacifiCorp”), submits this Memorandum in Opposition to the Committee’s Petition.

**I. The Commission Should Not Change its Decision That the Company Should Calculate Interest on the Refund Based on the Company’s Weighted Average Cost of Capital.**

In the Rate Case Order, the Commission ordered that until the disposition of the overcollection created by the September 10, 2001 Order in the rate case, the Company is to

accrue interest at the Company's weighted average cost of capital used in the rate case. That amount is 8.873% per year. The Committee takes exception with the Commission's determination, and requests that the Commission require the accrual of interest at the rate of 1% per month. The sole basis for the Committee's position is its view that the Company's "cash flow and bond rating problems" are "qualitatively no different than those of a customer of the Company who could not afford to pay a bill when it is due." Petition, p. 2.

Review or reconsideration on this issue should be denied. The Committee fails to assert any claim of error by the Commission and merely reiterates its position advocated at the hearing that the same rate as is used for the late payment charge should be used for calculation of interest on the refund. Moreover, the Committee fails to explain why the Commission should depart from past practice with respect to the level of interest used for calculating refunds. Specifically, in Docket No. 97-035-01, the Commission determined the amount of the refund with interest at the Company's weighted average cost of capital set in the case, 8.84%. The Commission's decision in this matter is consistent with precedent and should be affirmed.

Finally, the Committee fails to set forth any basis in the record in support of its view that the interest rate applicable to late payment charges should be the same as the interest rate applicable to the refund. There is simply no record in this case to support the Committee's assumption that the same considerations applicable to establishing the level of a late payment charge are applicable to the level of interest that should be accrued on a refund to customers. The late payment charge is not simply a reflection of the time value of money, but is designed to be at a higher rate that encourages timely payments by customers. Such a charge appropriately exceeds what is appropriate for a rate refund.

## **II. The Commission Should Not Impose the Additional Requirements on the Company Regarding Calculation of Individual Customer Refunds.**

The Committee asks that the Commission order the Company to “calculate *now*, on an individual customer-by-customer basis, the refund amounts due in Docket No. 01-035-01 so that there is an established basis for eventually calculating any refund that may be paid.” Petition, p. 4. The Commission should reject the Committee’s request. The request by the Committee for this new burden to be placed on the Company is based on the Committee’s premise that “the difficulties in determining the recipients of any Company refund are apparent, and those difficulties increase exponentially with time.” Petition, p. 3. There is no basis in the record to support that premise, and therefore there is no basis for imposing such an obligation on the Company at this time.

Further, the Committee’s request asks the Commission to order the Company to undertake an effort, without any regard to the cost of the effort, which the Committee itself acknowledges may be unnecessary. The testimony of Committee witness Kelly Francone, quoted in the Committee’s Petition, included the following: “...extraordinary efforts should be made to ensure that the customers who paid the excess monies receive their refund should one still be owed after the Commission’s final order in this matter. ... If a refund is determined to be due, that refund should be made at the Company’s expense.” (emphasis added). Similarly, the Commission’s November 2 Order in Docket No. 01-035-23 recognizes that a refund of the sort contemplated by the Committee might not be made: “PacifiCorp will ensure that each customer will be reimbursed based on usage in the event of a refund.” (p.6, emphasis added). It would be

unreasonable to now require the Company to incur the time and expense necessary to calculate refund amounts when such work may be entirely unnecessary.

Finally, the Committee fails to assert any error by the Commission in its request for the imposition of a new obligation on the Company, and the Committee's Petition should therefore be denied.

**III. The Commission Should Reject the Committee's Request That the Commission Order PacifiCorp to Take Steps Regarding Departing Customers.**

The Committee requests that the Commission order the Company to "*now*" contact its customers and advise them to leave forwarding addresses so that if any refund is made, it can be sent to the customers,<sup>1</sup> and to also advise its Utah customers what has been decided in these matters and that a refund remains a "real possibility." The Commission should decline to impose such requirements on the Company. First, the Committee's position presupposes that the Company would be directed to send refund checks to customers who have moved out of the Company's service territory. There is no basis for assuming that such obligation will arise in this case.

As with the other matters put forth by the Committee for reconsideration, the Committee fails to point to any error on the part of the Commission with respect to this issue. Accordingly, the Committee's request for reconsideration should be denied.

**CONCLUSION**

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<sup>1</sup> While there is no basis for reconsideration on this matter, the Company notes that it is already the Company's standard practice to obtain forwarding addresses from customers when they close accounts.

For the reasons set forth above, the Committee's Petition for Review or Reconsideration should be denied.

Dated this 3rd day of December, 2001.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of December, 2001, I caused to be served, via United States mail, postage prepaid, a true and correct copy of the foregoing Memorandum in Opposition to Petition by the Committee of Consumer Services for Review and Reconsideration to the following:

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