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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigations of the Power
Outage December 2003

RESPONSE OF THE DIVISION OF PUBLIC
UTILITIES TO THE COMMITTEE'S
PETITION TO EXTEND CUSTOMER CLAIM
PERIOD AND OTHER RELIEF

DOCKET NO. 04 - 035 - 01

Pursuant to Commission Rule 746-100-3, the Division of Public Utilities (Division) responds to and hereby files its response to the Petition for the Commission to Extend the 30-day Customer Claim Period and Other Relief (Petition).

Under Utah Power & Light Company Electric Service Regulation No. 25, a customer making a claim covered by the company's customer service guarantee program "must make a claim for compensation within 30 calendar days of the outage." The Committee of Consumer Services (Committee) petitions the Commission to suspend the 30-day deadline. The extension sought by the Committee is seemingly quite open-ended. The Committee requests the extension until:

a reasonable time after the utility's investigation has been completed; its report and corrective action plan have been received and reviewed by the Commission, Division, Committee, and other interested parties; all those wishing

to do so have had sufficient opportunity to inform the Commission of their views and conclusions; and the Commission has had the opportunity to consider all the facts and arguments, and to rule on the same.¹

The Committee also requests that the Commission order PacifiCorp to inform customers through various means of the Commission's investigation into the December 2003 outage, the possibility of a related guarantee credit and claim procedure.²


Although the Division is sympathetic to the frustrations expressed by customers following the December 2003 power outages, we cannot concur in the Committee's position. The Committee cites no legal basis upon which the Commission can grant the relief requested, which amounts to a unilateral, discretionary and retrospective suspension of a term of PacifiCorp's tariff. Regulation 25, like all other terms of the tariff, has the force and effect of law and it is binding on the company and its customers. If the Commission undertakes to amend or waive Regulation 25, it must exercise its authority in a lawful manner with due regard to the various party's rights to due process. The Commission perhaps has authority to amend Regulation 25 going forward, but the Committee asks the Commission to wield its regulatory authority to allow late-filed claims to pile up indefinitely. Additionally, the Committee asks the Commission to retroactively impose burdensome notice requirements on the company that were never contemplated by the tariff.

Because the Committee asks the Commission to grant relief that is not clearly grounded in law, the Division recommends that the Committee's petition be denied.

¹ Petition at 5-6.

² Id. at 6.

RESPECTFULLY submitted this 9th day of February 2004.

A handwritten signature in cursive script, reading "Patricia E. Schmid", written over a horizontal line.

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CERTIFICATE OF SERVICE

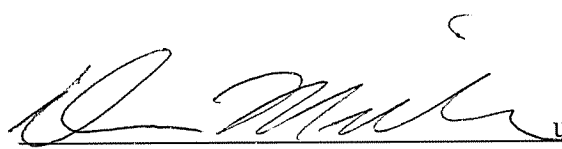
I hereby certify that on the ____ Day of February 2004, I mailed or emailed a copy of the **RESPONSE OF THE DIVISION OF PUBLIC UTILITIES TO THE COMMITTEE'S PETITION TO EXTEND CUSTOMER CLAIM PERIOD AND OTHER RELIEF** First Class mail, to the official service list.

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