

PAUL H. PROCTOR (#2657)
Assistant Attorney General
Utah Committee of Consumer Services
MARK L. SHURTLEFF (#4666)
Attorney General
160 East 300 South
P.O. Box 140857
Salt Lake City, Utah 84114-0857
Telephone (801) 366-0552

BEFORE THE PUBLIC SERVICE COMMISSION OF
UTAH

In the Matter
of the
Application of
PacifiCorp for
Approval of a
2009 Request
for Proposals
for Flexible
Resource

Docket No. 05-
035-47

UTAH
COMMITTEE
OF
CONSUMER
SERVICES
MOTION FOR
PRE-
HEARING
ORDER
PURSUANT
TO R746-100-
9

Pursuant to Utah Administrative Rule R746-100-9, the Utah Committee of Consumer Services moves the Utah Public Service Commission to issue a pre-hearing order governing the November 29, 2007 hearing upon PacifiCorp's Motion to Amend 2012 Request for Proposals. The Committee makes this motion for the purpose of clarifying the hearing purpose and procedures that the Commission described in a November 9, 2007 1:17 PM e-mail stating:

The purpose of the hearing on Nov. 27, 2007 will be to discuss the comments that are being filed today regarding the motion to amend the RFP. Parties should be prepared to discuss their comments. It will be full evidentiary in nature. Thanks. JPO

This e-mail was the Commission's response to the Committee's e-mail:

>>> Cheryl Murray 11/9/2007 12:29 PM >>>

Julie,

What is the Commission envisioning that this hearing will entail? (Scheduling or full evidentiary).

Cheryl

The Committee requests that the Commission's pre-hearing order identify the issues to be determined, identify the party that bears the burden of proof, require that witnesses be identified and a disclosure of the substantive content of the anticipated testimony, require disclosure of each document, analysis or evaluation that a party anticipates offering into evidence, determine the order of witnesses, cross-examination procedures, and determine procedures necessary to permit parties and counsel to utilize

confidential information in the course of the proceeding. The Committee requests the following be adopted as the pre-hearing order.

1. ISSUES AND BURDEN OF PROOF. The issues that the Committee contends are before the Commission are: (1) Has PacifiCorp properly evaluated under the Energy Resources Procurement Act, the results of the RFP as issued? PacifiCorp has the burden of proof upon this issue. (2) If so, does PacifiCorp's proposed amendment procedurally comply with the Act? PacifiCorp has the burden of proof upon this issue. (3) If so, does PacifiCorp's proposed amendment substantively comply with the Act? PacifiCorp has the burden of proof upon this issue. (4) Under the evidence, is PacifiCorp's 2012 RFP as issued or as amended, eligible for pre-approved cost recovery under the Act? PacifiCorp has the burden of proof upon this issue.

2. ORDER OF WITNESSS. The Committee requests the following order of witnesses, [R746-100-10.J.]:

a. The moving party, PacifiCorp, should be required to present all witnesses and offer all evidence that PacifiCorp contends is responsive to the issues identified by the Commission. The Committee requests that the Commission be given the first and ample opportunity to examine the witnesses prior to any cross-examination by other parties in order to encourage focused, non-repetitive and efficient examination by the parties.

b. Second, the Utah Independent Evaluator should be permitted to inform the Commission, as the Commission deems appropriate. The Commission should not allow cross-examination of the Utah Independent Evaluator.

c. The order of any witnesses to testify on behalf of other government or non-government party should be determined following the conclusion of PacifiCorp's case-in-chief and any presentation by the Utah Independent Evaluator.

d. At the conclusion of the evidentiary portion of the hearing, parties including parties excluded from the hearing, should be permitted to orally argue PacifiCorp's motion.

3. USE OF CONFIDENTIAL INFORMATION. In order to facilitate a party's offer into evidence and the Commission's admission of evidence, as well as parties' use, of confidential information, the Commission should order that the hearing is closed to the public and to parties who have not or do not comply with the October 12 and 15, 2007 Extraordinary Protective Order, which governs proceedings concerning PacifiCorp's motion.

Dated this 14th day of November 2007.

/s/ _____

Paul H. Proctor
Assistant Attorney General
Utah Committee of Consumer Services

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion was served upon the following by e-mail November 14, 2007:

Mark C. Moench
Justin Lee Brown
Attorneys for PacifiCorp
Mark.Moench@pacificorp.com
Justin.brown@pacificorp.com
Natalie.Hocken@pacificorp.com

Michael Ginsberg
Patricia Schmid
Assistant Attorney General
Utah Division of Public Utilities
Heber M. Wells Bldg., Fifth Floor
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov

Joro Walker
Utah Office Director
Western Resource Advocates
425 East 100 South
Salt Lake City, UT 84111
jwalker@westernresources.org

William J. Evans
Michael J. Malmquist
Parsons Behle & Latimer
201 S. Main Street, Suite 1800
Salt Lake City, UT 84111
bevans@parsonsbehle.com
mmalmquist@parsonsbehle.com

Gary A. Dodge
Hatch James & Dodge
10 West Broadway, Suite 400
Salt Lake City, UT 84101
gdodge@hjdllaw.com

Edward L. Selgrade, Esq.
71 Leicester Road
Belmont, MA 02478
eselgrade@verizon.net

Paul H. Proctor
Assistant Attorney General
For Utah Committee of Consumer Services