

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)
MidAmerican Energy Holdings Company) DOCKET NO. 05-035-54
and PacifiCorp dba Utah Power & Light)
Company for an Order Authorizing) REPORT AND ORDER
Proposed Transaction)

ISSUED: March 14, 2006

SHORT TITLE

Acquisition of PacifiCorp by MidAmerican Energy Holdings Company

SYNOPSIS

The Commission approves an Amendment to Stipulation by parties supporting the acquisition of PacifiCorp from ScottishPower by MidAmerican Energy Holdings Company.

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I. PROCEDURAL HISTORY

On July 15, 2005, MidAmerican Energy Holdings Company (“MEHC”) and PacifiCorp (jointly referred to as “Applicants”) filed an application requesting an order of the Public Service Commission of Utah (“Commission”) authorizing a proposed transaction whereby MEHC would acquire all of the common stock of PacifiCorp.

On November 18, 2005, a Stipulation dated November 15, 2005 was filed with the Commission, along with a motion requesting approval of the Stipulation. Parties to the Stipulation include MEHC, PacifiCorp, the Division of Public Utilities (“Division”), the Committee of Consumer Services (“Committee”), UIEC, the UAE Intervention Group, Utah Clean Energy and Western Resource Advocates. The Stipulation contains 50 general commitments and 28 Utah-specific commitments agreed to by the Applicants in exchange for the support of the parties in this proceeding.

On January 27, 2006, the Commission issued its order approving the Stipulation. Paragraph 10 of the Stipulation provides a process to allow parties to this docket to adopt commitments or conditions to which MEHC and PacifiCorp agree, or with which they are required to comply, in other jurisdictions.

Pursuant to Paragraph 10 of the Stipulation, MEHC, PacifiCorp the Division, the Committee, UIEC, the UAE Intervention Group, Utah Clean Energy, and Western Resource Advocates reached agreement on an Amendment to Stipulation which incorporates the commitments and conditions from other state jurisdictions that should be adopted in Utah. That Amendment to Stipulation was filed with the Commission on March 3, 2006.

On March 10, 2006, pursuant to public notice, a hearing was held in which the Amendment to Stipulation was presented to the Commission. Witnesses for MEHC, PacifiCorp and the Division presented testimony supporting the Amendment to Stipulation. No party presented testimony opposing the Amendment to Stipulation. The Commission questioned the parties and witnesses regarding various aspects of the Amendment to Stipulation and the evidence presented.

II. AMENDMENT TO STIPULATION

The Amendment to Stipulation was executed on March 3, 2006, among the Applicants (MEHC and PacifiCorp), the Division, the Committee, UIEC, the UAE Intervention Group, Utah Clean Energy and Western Resource Advocates. The Amendment to Stipulation constitutes the completion of the “Most Favored States” process specified in Paragraph 10 of the Stipulation, as provided in 20 modified and 20 new commitments and the addition of seven new paragraphs to the Stipulation. The Amendment to Stipulation, including the Amended Commitments from Most-Favored States Process agreed to by the Applicants, is appended to this Order.

III. POSITIONS OF THE PARTIES

The Applicants’ witness testifies that the Amendment to Stipulation includes forty commitments that are additions and modifications to the commitments included in the Stipulation. Of those forty commitments, twenty are modifications of the commitments included in the Stipulation and twenty are new commitments not previously adopted by the Commission. The witness states that those additions and modifications reflect, in accordance with Paragraph 10 of the Stipulation, conditions and commitments ordered or agreed to by MEHC and PacifiCorp in

other jurisdictions that the parties agree should be adopted in Utah.

The witness explains that many of those modifications involve very little change to the original commitment. For example, Commitment 12 has been modified to specify that notice to the Commission will be in writing. However, several of the modifications involve more extensive changes. For example, Commitment 11 has been expanded to provide for notice to the Commission in the event of any changes to ring-fencing protections. Similarly, Commitment 42 has been expanded to provide for the creation of a global warming working group made up of interested representatives from all of PacifiCorp's state jurisdictions.

The witness testifies that the new commitments address issues ranging from the study of transmission expansion (Commitment U 45) to obtaining an independent opinion regarding ring-fencing protections (Commitment U 29). One of the new commitments, Commitment U 46, would result in a reduction in the Utah share of the West Valley non-fuel costs. Under that commitment, MEHC and PacifiCorp commit to reduce the annual non-fuel costs of the West Valley lease by \$0.417 million per month total company. Commitment U 46 also provides for the deferral of Utah's share of the monthly credit. The witness explains that the Amendment to Stipulation also adds seven new paragraphs to address commitments made by or applicable to the parties and clarifications of commitments agreed to in other jurisdictions. In the category of commitments made by or applicable to the parties, Paragraph 16 reflects the parties' agreement to support recovery of the prudent costs associated with IGCC studies. In the category of clarifications, Paragraph 18 clarifies that allocation methodologies will be submitted for approval, in accordance with Commitment 14 (f), if required by order of the Commission. The Amendment to Stipulation also includes new Paragraph 20 which requests that the Commission's

order approving the Amendment to Stipulation require PacifiCorp to file a request for authority to begin the deferrals required under Commitment U 46.

Applicants' witness also states that, as a result of the "Most Favored States" process, the parties have now had the opportunity to review and discuss the additional commitments and conditions adopted in other jurisdictions to determine whether they will provide additional benefits to Utah. Applicants' witness explains that the Amendment to Stipulation which was the result of that process strengthens the existing commitments and provides new benefits to PacifiCorp's Utah customers. The witness concludes that the Amendment to Stipulation is just, reasonable and in the public interest and requests that the Commission adopt it.

The witness for the Division testifies that the Amendment to Stipulation includes four types of changes. The first is the addition of modifications that don't substantially change a commitment. The second is the addition of more extensive changes to an existing commitment. The third is the addition of new commitments. The fourth involves the addition of new paragraphs to the Stipulation. The witness explains that some of the new commitments are helpful in strengthening ring-fencing or otherwise provide better terms. The witness concludes that the Amendment to Stipulation is beneficial and in the public interest and recommends that the Commission adopt it.

IV. DISCUSSION AND FINDINGS

We find that, in accordance with the "Most Favored States" clause of the Stipulation, the parties have reviewed and discussed the commitments and conditions ordered or agreed to in PacifiCorp's other state jurisdictions. We find that the Amendment to Stipulation,

including the Amended Commitments from Most-Favored States Process, reflects the conditions and commitments ordered or agreed to by MEHC and PacifiCorp in other jurisdictions that the parties agree should be adopted in Utah. We also find that the Amendment to Stipulation strengthens the existing commitments and provides new benefits to PacifiCorp's Utah customers.

Having reviewed these documents, we believe it would be helpful to the Commission, as well as to the parties to any future proceedings regarding these commitments, for Applicants to prepare and file an exhibit summarizing the terms of the initial and amended stipulation agreements and commitments. This summary shall be submitted to the signatory parties for their review and approval prior to its filing as an exhibit in this docket. However, to the extent that the terms set forth in this summary exhibit differ from the terms provided in the Stipulation, Amendment to Stipulation, or Amended Commitments from Most-Favored States Process, the terms of said documents, not those contained in the summary exhibit, shall be controlling.

V. CONCLUSIONS OF LAW

Based upon the foregoing Discussion and Findings, the Commission makes the following conclusions of law.

1. The hearing held on the Amendment to Stipulation was properly noticed and was conducted in accordance with the Commission's hearing procedures.
2. PacifiCorp, doing business in Utah as Utah Power and Light Company, is an electrical corporation as defined in Utah Code Ann. § 54-2-1(7) and a public utility as defined in Utah Code Ann. § 54-2-1(15). The Commission has authority to regulate PacifiCorp in the State of Utah and to supervise all of the public utility business of PacifiCorp in the State of Utah

pursuant to Utah Code Ann. § 54-4-1.

3. The Commission concludes that the Amendment to Stipulation executed by PacifiCorp, MEHC and the various signatory parties is just and reasonable and should be approved.

VI. ORDER

Wherefore, pursuant to our discussion, findings and conclusions made herein, we order:

1. The Amendment to Stipulation executed on March 3, 2006, by MidAmerican Energy Holdings Company, PacifiCorp, the Division, the Committee, UAE Intervention Group, UIEC, Utah Clean Energy and Western Resource Advocates is adopted by the Commission and incorporated by reference in this Order.

2. Within 30 days after the date of this Order, the Applicants will file as an exhibit in this docket, a summary of the terms of the stipulated agreement, amended stipulated agreement, consolidated commitments, and amended commitments from most favored states process, approved in this matter.

3. The Division will review this exhibit for compliance with this Order. Within 20 days of the filing of the summary exhibit by the Applicants, the Division shall notify the Commission that the filed exhibit complies with this Order and the relevant components of our January 27, 2006 Order, or inform the Commission regarding any material changes contained in the exhibit.

4. Within 30 days after the transaction closes PacifiCorp is required to file a petition for an accounting order to establish its authority to create deferral accounts, as necessary

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to make effective the terms of commitment number U 46.

This Report and Order constitutes final agency action in this docket. Pursuant to Utah Code Ann. §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 14th day of March, 2006.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
GW#48100

**-APPENDIX: AMENDMENT TO STIPULATION AND COMMITMENTS-
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

| | | |
|--|---|----------------------|
| In the Matter of the Application of MidAmerican Energy |) | |
| Holdings Company and PacifiCorp dba Utah Power |) | AMENDMENT TO |
| & Light Company for an Order Authorizing |) | STIPULATION |
| Proposed Transaction |) | |
| |) | Docket No. 05-035-54 |

BACKGROUND

1. On July 15, 2005, MidAmerican Energy Holdings Company (“MEHC”) and PacifiCorp (“PacifiCorp”) (sometimes hereinafter jointly referred to as “Applicants”) filed an Application with the Public Service Commission of Utah (“Commission”) authorizing a proposed transaction (“Transaction”) whereby MEHC would acquire all of the outstanding common stock of PacifiCorp and PacifiCorp would thereafter become an indirect wholly owned subsidiary of MEHC.

2. On November 18, 2005, a Stipulation, dated November 15, 2005, (“Stipulation”) was filed in the above-referenced proceeding which was signed by MEHC, PacifiCorp, the Division of Public Utilities, Committee of Consumer Services, Utah Association of Energy Users, Utah Industrial Energy Consumers, Utah Clean Energy and Western Resource Advocates (“Signatories”). The Stipulation contained 50 general commitments and 28 Utah-specific commitments (collectively referred to herein as the “Commitments”) agreed to by the Applicants. The Stipulation represented the negotiated resolution of all outstanding issues in the proceeding.

3. The Stipulation contained a “Most Favored States” clause (Paragraph 10), which provides a mechanism to allow Utah parties to adopt any commitments or conditions to which the Applicants agree, or with which the Applicants are required to comply, in other jurisdictions, even if such commitments and conditions are agreed to after the Commission entered its order in this docket. The Stipulation, at Paragraph 10, provided a process and timeline by which the parties would meet and discuss commitments and conditions from other states and propose adoption of other states’ commitments and conditions in Utah. The Signatories requested that the Commission issue an order accepting the Stipulation as soon as practical, but reserve in the order the explicit right to re-open the list of Commitments (Appendix A) to add, subject to the provisions of Paragraph 10, commitments and conditions accepted or ordered in another state jurisdiction, as proposed by the parties.

4. On January 27, 2006, the Commission issued its Report and Order in which it approved the Stipulation and granted the July 15, 2005 Application. The Commission reserved the explicit right to re-open the Commitments appended to the Stipulation to facilitate the process described in Paragraph 10 of that document.

PURPOSE AND PARTIES

5. Pursuant to Paragraph 10 of the Stipulation, the parties have reviewed and discussed the commitments and conditions agreed to by the Applicants and approved in the other state jurisdictions.

6. As a result of their review and discussions, the parties (collectively referred to herein as the “Parties” and individually as “Party”) whose signatures appear on the signature page of this Amendment to Stipulation (“Amendment to Stipulation”) have reached agreement on the commitments and conditions from other state jurisdictions that should be adopted in Utah.

7. The Parties agree to advocate Commission approval of this Amendment to Stipulation and request that the Commission issue its order adopting this Amendment to Stipulation no later than March 15, 2006.

8. Except as specified herein, the terms and conditions of the Stipulation, including the Commitments attached to the Stipulation as Appendix A, remain unchanged.

MODIFICATION

9. The Parties have negotiated this Amendment to Stipulation as an integrated document. If the Commission rejects all or any part of this Amendment to Stipulation or imposes additional material conditions in approving this Amendment to Stipulation, any Party disadvantaged by such action shall have the right, upon written notice to the Commission and all Parties within 15 business days of the Commission’s order, to withdraw from this Amendment to Stipulation. However, prior to withdrawal, the Party shall engage in a good faith negotiation process with the other Parties. No Party withdrawing from this Amendment to Stipulation, including the Applicants, shall be bound to any position, commitment, or condition of this Amendment to Stipulation.

EFFECTIVE DATE

10. Subject to Paragraph 11 of this Amendment to Stipulation, the effective date of this Amendment to Stipulation shall be the date of the closing of the Transaction.

11. The Applicants' obligations under this Amendment to Stipulation are subject to the provisions of Paragraph 9 of this Amendment to Stipulation and the closing of the Transaction.

COMMITMENTS BY THE PARTIES

12. Appendix A to this Amendment to Stipulation contains the additions and modifications to the Commitments included in Appendix A to the Stipulation. By virtue of executing this Amendment to Stipulation, the Applicants agree to perform the Amended Commitments ("Amended Commitments") set forth in Appendix A, to this Amendment to Stipulation, according to the provisions of each commitment as set forth therein. Except as set forth in Appendix A to this Amendment to Stipulation, the Commitments included in Appendix A to the Stipulation remain unchanged.

13. The Parties agree that with these Amended Commitments and the terms and conditions of this Amendment to Stipulation, the process outlined in Paragraph 10 of the Stipulation has been fully implemented and, therefore, the terms and conditions of Paragraph 10 of the Stipulation are superseded by this Amendment to Stipulation.

14. The Stipulation is amended to add the following new Paragraphs 15, 16, 17, 18, 19, 20, and 21:

“15. The following provisions are applicable only to the Parties:

- “a. Through December 31, 2011, MEHC and PacifiCorp will both confer with the Signatories and provide drafts in a timely manner prior to introducing legislation in the Utah Legislature that would impact Utah utility regulation, including Utah city franchise authority.
- “b. MEHC has no current intention to acquire other electrical corporations as defined by Utah Code Annotated § 54-2-1 (7), or gas corporations, as defined by Utah Code Annotated § 54-2-1(9). If that intention should ever change, MEHC will confer with the Signatories before public announcement of such an acquisition, subject to agreements regarding confidentiality.
- “c. Within 90 days of the close of the Transaction, MEHC and PacifiCorp will begin working with the Division of Public Utilities and other interested parties, to evaluate and, if mutually agreed to be appropriate, file with the Commission service quality standards related to industrial customers, with a focus on high tech companies. MEHC, PacifiCorp, the Division of Public Utilities and any other interested party, will report back to the Commission on the conclusions and recommendations reached no later than February 1, 2007. MEHC and PacifiCorp acknowledge that modifications to existing customer service guarantees and performance standards may result from this process and nothing in Commitments 1 or 45 will preclude these from being

filed if mutually agreed-upon by the Parties.

“d. Senior executives of MEHC and PacifiCorp will make themselves available upon request to the Signatories to discuss regulatory, customer service, and energy policy issues.

“e. MEHC and PacifiCorp agree that the provisions of this paragraph are subject to Commitment 33, regarding enforcement and dispute resolution.

“16. The Parties agree to support recovery, over a reasonable period, of prudent costs associated with the IGCC studies in Commitment U 16, consistent with Utah law and regulatory practice.

“17. Commitment 10 addresses waiver of certain defenses under *Ohio Power Co. v. FERC* by MEHC and Berkshire Hathaway until PUHCA repeal is effective on February 8, 2006. Since no case law has yet developed regarding the same subject matter after the repeal of PUHCA, the parties have not addressed the issue beyond February 8, 2006. The parties acknowledge that the Commission should monitor federal developments on this subject matter and may need to address the same in the future.”

“18. Commitment 14(f) is clarified to reflect the agreement that allocation methodologies will be submitted for approval if required by law, rule or “required by order of the Commission.”

“19. Stipulation Paragraph 17 is clarified to reflect the agreement of PacifiCorp and

MEHC that, if there is an issue MEHC and PacifiCorp believe the Commission needs to be aware of or that the Commission needs to address, including any significant federal developments regarding the pricing of affiliate transactions after the close of the transaction, MEHC and PacifiCorp will affirmatively initiate a dialogue with the Commission on matters relating to PUHCA.”

- “20. The Parties request that the Commission include the following ordering paragraph in its order approving this Amendment to Stipulation and Modifying Commitments:

Within 30 days after the transaction closes PacifiCorp is required to file a petition for an accounting order to establish its authority to create deferral accounts, as necessary to make effective the terms of commitment number U 46, set forth in Appendix A to the Stipulation.”

- “21. The Parties request that the Commission include the following ordering paragraph in its order approving this Amendment to Stipulation and Modifying Commitments:

To help in finalizing the documentation for this case, the Applicants shall file with the Commission, at the time of the closing of the transaction, a narrative and an organizational chart showing the relationship among PacifiCorp, MEHC, Berkshire Hathaway and their subsidiary and affiliated business entities. This documentation should clearly show the owners of PacifiCorp and the percentages held, up to the level of the ultimate parent, Berkshire Hathaway.”

RESERVATION OF RIGHTS

15. Except as expressly provided for herein and in the Stipulation, by executing this Amendment to Stipulation, no Party waives any right to assert such positions regarding the

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prudence, just and reasonable character, rate or ratemaking impact or treatment, or public interest as they deem appropriate pertaining to any Amended Commitment.

Executed this 3rd day of March, 2006.

MIDAMERICAN ENERGY HOLDINGS COMPANY

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Senior Vice President, Law

PACIFICORP

D. Douglas Larson
Vice President, Regulation

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WESTERN RESOURCE ADVOCATES

Eric Guidry
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**MEHC Acquisition of PacifiCorp
Utah Docket No. 05-035-54**

Amended Commitments from Most-Favored States Process:

Extension of Existing Commitments – (reference Gale’s Exhibit UP&L (BEG-1))

- 6) The Commission or its agents may audit the accounting records of MEHC and its subsidiaries that are the bases for charges to PacifiCorp, to determine the reasonableness of the costs and allocation factors used by MEHC to assign costs to PacifiCorp and amounts subject to allocation or direct charges. MEHC agrees to cooperate fully with such Commission audits.

- 11 a) Any diversified holdings and investments (e.g., non-utility business or foreign utilities) of MEHC following approval of the transaction will not be held by PacifiCorp or a subsidiary of PacifiCorp. Ring-fencing provisions (i.e., measures providing for separate financial and accounting treatment) will be provided for PacifiCorp and its subsidiaries including, but not limited to, provisions protecting PacifiCorp and its subsidiaries from the liabilities or financial distress of MEHC and its affiliates. This condition will not prohibit MEHC or its affiliates other than PacifiCorp from holding diversified businesses.

- b) [Intentionally left blank.]

- c) PacifiCorp will notify the Commission of any changes in the ring-fencing provisions within 30 days. Such notice shall include verification that (i) the change has been approved by the independent director of PacifiCorp’s parent company, and (ii) the rating agencies have confirmed that there will be no credit downgrade from the changed ring-fencing protections.

- 12) PacifiCorp or MEHC will notify the Commission in writing subsequent to MEHC’s board approval and as soon as practicable following any public announcement of: (1) any acquisition of a regulated or unregulated business representing 5 percent or more of the capitalization of MEHC; or (2) the change in effective control or acquisition of any material part or all of PacifiCorp by any other firm, whether by merger, combination, transfer of stock or assets.

- 14) Any proposed cost allocation methodology for the allocation of corporate and affiliate investments, expenses, and overheads, required by law or rule to be submitted to the Commission for approval, will comply with the following principles:
 - a) For services rendered to PacifiCorp or each cost category subject to allocation to PacifiCorp by MEHC or any of its affiliates, MEHC must be able to demonstrate that such service or cost category is necessary to PacifiCorp for the performance of its regulated

operations, is not duplicative of services already being performed within PacifiCorp, and is reasonable and prudent.

- b) Cost allocations to PacifiCorp and its subsidiaries will be based on generally accepted accounting standards; that is, in general, direct costs will be charged to specific subsidiaries whenever possible and shared or indirect costs will be allocated based upon the primary cost-driving factors.
- c) MEHC and its subsidiaries will have in place positive time reporting systems adequate to support the allocation and assignment of costs of executives and other relevant personnel to PacifiCorp.
- d) An audit trail will be maintained such that all costs subject to allocation can be specifically identified, particularly with respect to their origin. In addition, the audit trail must be adequately supported. Failure to adequately support any allocated cost may result in denial of its recovery in rates.
- e) Costs which would have been denied recovery in rates had they been incurred by PacifiCorp regulated operations will likewise be denied recovery whether they are allocated directly or indirectly through subsidiaries in the MEHC group.
- f) Any corporate cost allocation methodology used for rate setting, and subsequent changes thereto, will be submitted to the Commission for approval if required by law or rule.

15) MEHC and PacifiCorp commit that PacifiCorp will maintain separate debt and preferred stock, if any. PacifiCorp will maintain its own corporate credit rating, as well as ratings for long-term debt and preferred stock, from Moody's and S&P or their successor agencies.

17) MEHC and PacifiCorp will provide the Commission with unrestricted access to all written information provided by and to credit rating agencies that pertains to PacifiCorp or MEHC. Berkshire Hathaway and MEHC will also provide the Commission with unrestricted access to all written information provided by and to credit rating agencies that pertains to MEHC's subsidiaries to the extent such information may potentially impact PacifiCorp.

New Commitments – (reference G. Abel's Testimony and Exhibit UP&L (GEA-1))

34) MEHC and PacifiCorp have identified transmission projects that MEHC and PacifiCorp believe will enhance reliability, facilitate the receipt of renewable resources, or enable further system optimization. Subject to permitting and the availability of materials, equipment and

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rights-of-way, MEHC and PacifiCorp commit to use their best efforts to achieve the following transmission system infrastructure improvements¹:

- a) Path C Upgrade (~\$78 million) – Increase Path C capacity by 300 MW (from S.E. Idaho to Northern Utah). The target completion date for this project is 2010. MEHC and PacifiCorp assert that this project:
 - enhances reliability because it increases transfer capability between the east and west control areas,
 - facilitates the delivery of power from wind projects in Idaho, and
 - provides PacifiCorp with greater flexibility and the opportunity to consider additional options regarding planned generation capacity additions.

- b) Mona - Oquirrh (~\$196 million) – Increase the import capability from Mona into the Wasatch Front (from Wasatch Front South to Wasatch Front North). This project would enhance the ability to import power from new resources delivered at or to Mona, and to import from Southern California by “wheeling” over the Adelanto DC tie. The target completion date for this project is 2011. MEHC and PacifiCorp assert that this project:
 - enhances reliability by enabling the import of power from Southern California entities during emergency situations,
 - facilitates the acceptance of renewable resources, and
 - enhances further system optimization since it enables the further purchase or exchange of seasonal resources from parties capable of delivering to Mona.

- c) Walla Walla - Yakima or Mid-C (~\$88 million) – Establish a link between the “Walla Walla bubble” and the “Yakima bubble” and/or reinforce the link between the “Walla Walla bubble” and the Mid-Columbia (at Vantage). MEHC and PacifiCorp assert that either of these projects presents opportunities to enhance PacifiCorp’s ability to accept the output from wind generators and balance the system cost effectively in a regional environment. The target completion date for this project is 2010.

¹ While MEHC has immersed itself in the details of PacifiCorp’s business activities in the short time since the announcement of the transaction, it is possible that upon further review a particular investment might not be cost-effective, optimal for customers or able to be completed by the target date. If that should occur, MEHC pledges to propose an alternative to the Commission with a comparable benefit. The Commission may investigate the reasonableness of any determination by MEHC/PacifiCorp that one or more of the identified transmission investments is not cost-effective or optimal for customers.

35. MEHC and PacifiCorp make the following commitments to improve system reliability:
- a) investment in the Asset Risk Program of \$75 million over the three years, 2007-2009,
 - b) investment in local transmission risk projects across all states of \$69 million over eight years after the close of the transaction,
 - c) O & M expense for the Accelerated Distribution Circuit Fusing Program across all states will be increased by \$1.5 million per year for five years after the close of the transaction, and
 - d) extension of the O&M investment across all states for the Saving SAIDI Initiative for three additional years at an estimated cost of \$2 million per year.
 - e) MEHC and PacifiCorp will support the Bonneville Power Administration in its development of short-term products such as conditional firm. No less than three months following the close of the transaction, PacifiCorp will initiate a process to collaboratively design similar short-term transmission products and will include stakeholders in this process. PacifiCorp will make every reasonable effort to complete a product by the end of 2008.
 - f) PacifiCorp will continue to offer its Partial Interim Service product, and will make commercially reasonable efforts to offer transmission customers as much firm service as the Company's transmission studies show is available, including weeks within a month. PacifiCorp will also continue its OATT tariff provision that allows transmission customers to alter pre-scheduled transactions up to 20 minutes before the hour as long as such provision is consistent with established scheduling practices and does not jeopardize system reliability. PacifiCorp will notify parties to this proceeding if it proposes changes to these two elements of its OATT.
- 42) a) MEHC and PacifiCorp commit to participate in the Environmental Protection Agency's SF₆ Emission Reduction Partnership for Electric Power Systems. Sulfur hexafluoride (SF₆) is a highly potent greenhouse gas used in the electric industry for insulation and current interruption in electric transmission and distribution equipment. MEHC and PacifiCorp represent that over a 100-year period, SF₆ is 23,900 times more effective at trapping infrared radiation than an equivalent amount of CO₂, making it the most highly potent, known greenhouse gas. SF₆ is also a very stable chemical, with an atmospheric lifetime of 3,200 years. As the gas is emitted, it accumulates in the atmosphere in an essentially un-degraded state for many centuries. Thus, a relatively small amount of SF₆ can have a significant impact on global climate change. Through its participation in the SF₆ partnership, PacifiCorp will commit to an appropriate SF₆ emissions reduction goal and annually report its estimated SF₆ emissions. MEHC and PacifiCorp represent that this not only reduces greenhouse gas emissions, it saves money and improves grid reliability. Since 1999, EPA's SF₆ partner companies have saved \$2.5 million from the avoided gas loss alone. Use of improved SF₆ equipment and management practices helps protect system

- reliability and efficiency.
- b) Within six months after close of the transaction, MEHC and PacifiCorp commit that PacifiCorp will establish a global warming working group composed of representative of the regulatory, consumer, educational and environmental communities in the six states that PacifiCorp serves, as well as representatives of PacifiCorp and MEHC. PacifiCorp will work with the global warming working group to identify cost-effective measures to reduce PacifiCorp's greenhouse emissions. PacifiCorp will develop and file with the Commission its strategy, which MEHC supports, for reducing its greenhouse gas emissions.
- 43) Working with the affected generation plant joint owners and with regulators to obtain required approvals, MEHC and PacifiCorp commit to install, to the extent cost-effective, the equipment likely to be necessary under future emissions control scenarios at a cost of approximately \$812 million. Concurrent with any application for an air permit, MEHC and PacifiCorp will discuss its plans regarding this commitment with interested parties and solicit input. While additional expenditures may ultimately be required as future emission reduction requirements become better defined, MEHC believes these investments in emission control equipment are reasonable and environmentally beneficial. The execution of an emissions reduction plan for the existing PacifiCorp coal-fueled facilities, combined with the use of reduced-emissions coal technology for new coal-fueled generation, is expected to result in a significant decrease in the emissions rate of PacifiCorp's coal-fueled generation fleet. MEHC represents that the investments to which MEHC is committing are expected to result in a decrease in the SO₂ emissions rates of more than 50%, a decrease in the NO_x emissions rates of more than 40%, a reduction in the mercury emissions rates of almost 40%, and no increase expected in the CO₂ emissions rate.
- 44) Energy Efficiency and DSM Management:
- a) MEHC and PacifiCorp commit to conducting a company-defined third-party market potential study of additional DSM and energy efficiency opportunities within PacifiCorp's service areas. The objective of the study will be to identify opportunities not yet identified by the company and, if and where possible, to recommend programs or actions to pursue those opportunities found to be cost-effective. The study will focus on opportunities for deliverable DSM and energy efficiency resources rather than technical potentials that may not be attainable through DSM and energy efficiency efforts. On-site solar and combined heat and power programs may be considered in the study. During the three-month period following the close of the transaction, MEHC and PacifiCorp will consult with DSM advisory groups and other interested parties to define the proper scope of the study. The findings of the study will be reported back to DSM advisory groups, commission staffs, and other interested stakeholders and will be used by the Company in helping to direct ongoing DSM and energy efficiency efforts. The study will be completed within fifteen months after the closing on the transaction, and MEHC shareholders will absorb the first \$1 million

- of the costs of the study.
- b) PacifiCorp further commits to meeting its portion of the NWPPC's energy efficiency targets for Oregon, Washington and Idaho, as long as the targets can be achieved in a manner deemed cost-effective by the affected states.
 - c) In addition, MEHC and PacifiCorp commit that PacifiCorp and MEC will annually collaborate to identify any incremental programs that might be cost-effective for PacifiCorp customers. The Commission will be notified of any additional cost-effective programs that are identified.

Supplemental General Commitments

- 48) PacifiCorp will provide public notice and an invitation to encourage stakeholders to participate in the Integrated Resource Plan (IRP) process. The IRP process will be used to consider Commitments 34, 39, 40, 41, 44, 52 and 53. PacifiCorp will hold IRP meetings at locations or using communications technologies that encourage broad participation.

Utah-Specific Commitments – (reference Gale Exhibit UP&L (BEG-1)

- U 3. PacifiCorp or MEHC will notify the Commission in writing prior to implementation of plans by PacifiCorp or MEHC: (1) to form an affiliate for the purpose of transacting business with PacifiCorp's regulated operations; (2) to commence new business transactions between an existing affiliate and PacifiCorp; or (3) to dissolve an affiliate which has transacted substantial business with PacifiCorp.
- U 4. The premium paid by MEHC for PacifiCorp (Acquisition Premium) will be excluded from the utility accounts of PacifiCorp. Further, MEHC and PacifiCorp commit that they will not propose to recover the Acquisition Premium in PacifiCorp's results of operations, unless this commitment is modified by the Commission, pursuant to a filing under Utah Code Ann. § 54-7-13, to allow for the recovery of the Acquisition Premium. MEHC and PacifiCorp will not request or support a motion to modify this commitment to allow recovery of the Acquisition Premium unless a party in a proceeding before the Commission proposes an adjustment to PacifiCorp's revenue requirement that MEHC and PacifiCorp assert violates the regulatory theory of the matching principle. If PacifiCorp seeks recovery of the Acquisition Premium, then other Parties are free to oppose such recovery, including the validity of the matching principle.

Supplemental Utah-Specific Commitments

U 14. PacifiCorp commits to continue to provide the Division of Public Utilities and the Committee of Consumer Services at the same time as the Commission with the filings, data and documents made with or provided to the Commission pursuant to Commitments 3, 4, 8, 11(c), 13, 18, 49, U 2, U 3, U 9, U 11, U 12, U 13, U 20 and U 21 at the same time as filed with the Commission. PacifiCorp will make publicly-available at the Commission non-confidential portions of the report.

U 15. MEHC and PacifiCorp commit to form within 60 days of close of the transaction an IGCC Working Group, sponsored by PacifiCorp to discuss various policy and technology issues associated with IGCC, carbon capture, and sequestration. Working Group members would include representatives from major stakeholder and regulatory groups, PacifiCorp and MEHC officials, and others as appropriate. Some issues and challenges to development that would be considered by the Working Group would include:

- the status of development of carbon sequestration policy and methods, including requirements for monitoring and verifying sequestration options;
- information sharing, so that, to the extent possible, all parties develop a shared understanding of expected IGCC technology benefits, expected capital and O&M costs, and potential risks;
- information sharing to understand such terms and associated requirements with concepts such as “carbon capture ready” and “permanent sequestration”;
- issues related to technology of and permitting for IGCC air emissions, waste disposal, water use and site usage;
- commercial terms and conditions associated with IGCC plant development, construction, and maintenance; and
- implications of SB 26 on development of IGCC plants given the implications of long development lead times, development costs, project risk, and cost uncertainty.

The IGCC Working Group would meet periodically to discuss the above issues and identify possible solutions, and to stay abreast of the evolving technology and commercial environment.

U 16. MEHC and PacifiCorp commit to the following,:

- a) MEHC and PacifiCorp commit to study the economics and viability of an IGCC option and will present the results of this study as a resource alternative to inform the resource selection and RFP process under consideration in Docket 05-035-47. PacifiCorp will also file the results of this study and the draft RFP with the Commission pursuant to the provisions of SB 26. PacifiCorp will suggest procedural schedules that will facilitate this

commitment. As soon as practical, but not later than three months after the closing of the transaction, PacifiCorp will provide to the parties estimated cost and timeline ranges for completion of an IGCC project, as well as potential resource alternatives if an IGCC design is not reasonably achievable in time to economically meet the resource need presently identified in 2012 from a customer and shareholder perspective.

- b) PacifiCorp will perform initial conceptual and siting studies, general feasibility studies, and, where appropriate, other more detailed studies and engineering work, for an IGCC plant for the 2014 resource need identified in the October 2005 IRP Update. The studies will include an evaluation of the expected cost and performance impacts of constructing a plant to be carbon capture ready. These studies will be performed in parallel with similar studies to evaluate other generation technologies. Such studies will be completed within the next IRP cycle.
- c) PacifiCorp will include a utility self-build option of an IGCC unit in any RFPs for the 2014 and later non-renewable resource needs, whether or not the IGCC option is found to be PacifiCorp's preferred cost-based alternative, and present PacifiCorp's evaluation of the IGCC option against another self-build alternative(s) as part of the Utah SB 26 process. This will include an evaluation of the cost and performance impacts of the IGCC resource being constructed to be carbon capture ready.

U 25. MEHC and PacifiCorp commit up to a total contribution level for Utah low-income bill payment assistance in the amount of \$400,000 annually, for a five-year period beginning July 1, 2006. The contributions may be comprised of contributions from corporate, employee, other sources, and customer donations. The corporate contribution will be recorded in non-utility accounts. Before the end of the five-year period, MEHC and PacifiCorp commit to work with low income advocates and customer groups to evaluate additional contributions.

U 26. MEHC commits to provide shareholder funding to hire a consultant to study and design for possible implementation of an arrearage management project for low-income customers that could be made applicable to Utah and other states that PacifiCorp serves. PacifiCorp will provide a resource for facilitation of a working group to oversee the project. The study shall commence no later than 180 days after close of the transaction and be completed, through the issuance of a formal report to the Commission, no later than 365 days after close of the transaction. MEHC recognizes that such a program may have to be tailored to best fit the unique low-income environment of each individual state. The project will be developed by PacifiCorp in conjunction with the relevant regulatory and governmental agencies, low-income advocates and other interested parties in each state that is interested in participating. The goals of the project will include reducing service terminations, reducing referral of delinquent customers to third party collection agencies, reducing collection litigation and

reducing arrearages and increasing voluntary customer payments of arrearages. The costs of this study will be at least \$66,000 on a total company basis paid for by shareholders. If less than six states participate, the amount of the shareholder funds will be reduced proportionally.

U 28. MEHC and PacifiCorp will supplement the report filed with the Commission, the Division and the Committee, pursuant to Commitment 49, by including information regarding the implementation of each of the Utah-Specific Commitments, U 1 through U 27 and U 29 through U 46.

Additional Commitments from Most-Favored States Process:

Supplemental General Commitments

51) [INTENTIONALLY LEFT BLANK.]

52) Upon closing, MEHC and PacifiCorp commit to immediately evaluate increasing the generation capacity of the Blundell geothermal facility by the amount determined to be cost-effective. Such evaluation shall be summarized in a report and filed with the Commission concurrent with the filing of PacifiCorp's next IRP. This incremental amount is expected to be at least 11 MW and may be as much as 100 MW. All cost effective increases in Blundell capacity, completed before January 1, 2015, should be counted toward satisfaction of PacifiCorp's 1400 MW renewable energy goal, in an amount equal to the capacity of geothermal energy actually added at the plant.

53) MEHC or PacifiCorp commit to commence as soon as practical after close of the transaction a system impact study to examine the feasibility of constructing transmission facilities from the Jim Bridger generating facilities to Miners Substation in Wyoming. Upon receipt of the results of the system impact study, MEHC or PacifiCorp will review and discuss with stakeholders the desirability and economic feasibility of performing a subsequent facilities study for the Bridger to Miners transmission project.

Supplemental Utah-Specific Commitments

U 29. Within three months of closing of the transaction, MEHC commits to obtain a non-consolidation opinion that demonstrates that the ring fencing around PPW Holdings LLC is sufficient to prevent PPW Holdings LLC and PacifiCorp from being pulled into an MEHC bankruptcy. MEHC commits to promptly file such opinion with the Commission. If the

ring-fencing provisions of this agreement are insufficient to obtain a non-consolidation opinion, MEHC agrees to promptly undertake the following actions:

- a) Notify the Commission of this inability to obtain a non-consolidation opinion.
- b) Propose and implement, upon Commission approval, such ring-fencing provisions that are sufficient to prevent PPW Holdings LLC from being pulled into an MEHC bankruptcy.
- c) Obtain a non-consolidation opinion.

U 30. MEHC and PacifiCorp commit that PacifiCorp will not make any dividends to PPW Holdings LLC or MEHC if PacifiCorp's unsecured debt rating is BBB- or lower by S & P or Fitch (or Baa3 or lower by Moody's), as indicated by two of the three rating agencies.

U 31. To the extent available, MEHC and PacifiCorp commit to have 400 MW of cost effective new renewable resources in PacifiCorp's generation portfolio by December 31, 2007. The 400 MW will include Wolverine Creek (64.5 MW) and Cove Fort (42 MW). MEHC and PacifiCorp will analyze the projects consistent with applicable regulatory rules and orders in effect at the time and as informed by the IRP. Resource identification shall be performed using an RFP procedure. If PacifiCorp fails to meet this 400 MW target it will disclose to signatories (excluding any bidders and affiliates of bidders) the cost-effectiveness analysis it used when rejecting the lowest cost projects. PacifiCorp shall file a report, on the status of meeting this target, with the Commission no later than six months after close of the transaction. In evaluating acquisition of renewable energy, all other things being equal, MEHC and PacifiCorp will not prefer ownership of facilities.

U 32. MEHC and PacifiCorp commit that they will interpret Utah Code Annotated Section 54-4-28 to require Commission approval of any transaction which results in a merger of PacifiCorp with another public utility, without regard to whether that public utility provides service in Utah.

U 33. MEHC and PacifiCorp will support cost effective and safe community renewable energy projects in Utah using PURPA contracts implemented under avoided cost tariffs approved by the Commission. If PURPA is no longer in effect in Utah before an alternate market for community renewable energy is developed, PacifiCorp will work with Utah stakeholders and the Commission to develop replacement procedures for new contracts. For the purpose of this Commitment, community renewable energy projects are defined as: Locally owned renewable energy projects. Normally 1-10 MW standard contract PURPA projects and industrial co-gen type projects between 10 MW and 99 MW that use negotiated PURPA contracts. Projects can be: 1. Private ownership (example – several farmers in a wind

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- project); 2. Municipal ownership (irrigation district small-hydro or local school; wind turbine); or 3. Combined municipal/private ownership projects (local community partnered with landowners).
- U 34. To the extent consistent with the interests of PacifiCorp's retail customers, MEHC and PacifiCorp will support through action and policy the emerging community renewable energy market in Utah. PacifiCorp will also consult with community renewable energy representatives if PacifiCorp is contemplating changes to system operations that would adversely affect community renewable energy projects.
- U 35. Water Rights agreements will be abided by MEHC and PacifiCorp.
- U 36. MEHC and PacifiCorp will provide the Commission access to corporate minutes, including Board of Director's minutes and all committee minutes, along with any related source documents that are relevant to the business and risk analysis of PacifiCorp. PacifiCorp and the Division of Public Utilities will establish an agreeable procedure to review these confidential documents in Portland, Oregon or Salt Lake City, Utah.
- U 37. MEHC and PacifiCorp will provide the Commission access to operational, internal and risk audit reports and documentation. PacifiCorp and the Division of Public Utilities will establish an agreeable procedure to review these confidential documents and the timeline to provide an annual listing of such audits.
- U 38. A near-final draft agreement for PPW Holdings LLC that contains the ring-fencing provisions of Commitment 11 was sent to the Division of Public Utilities before January 15, 2006. The final signed agreement will be filed with the Commission within 30 days after the close of the transaction.
- U 39. Within 30 days of the close of the transaction, PacifiCorp will provide the Commission with a written list of changes that were made to employee benefit plans between the announcement of the transaction and the close of the transaction. PacifiCorp and MEHC will provide 30 days' notice to the Commission prior to merging PacifiCorp's pension with the pension plan of another MEHC business.
- U 40. As part of the DSM study in Commitment 44, PacifiCorp will also consider the market potential associated with irrigation and load curtailment programs in Utah. The study will compare the cost effectiveness of DSM resources with comparable supply side resources.
- U 41. MEHC and PacifiCorp commit that PacifiCorp will not directly own equity shares of either

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Berkshire Hathaway or MEHC, if MEHC were ever to become publicly traded.

- U 42. MEHC commits to provide 30 days' notice to the Commission if it intends to create a corporate entity between PPW Holdings LLC and MEHC. MEHC further states that it has no current intention to create such a corporate entity.
- U 43. With respect to any proceeding, including but not limited to any rate case, tariff filing, pass-through application, show cause, complaint or other proceeding, wherein PacifiCorp's Utah retail rates are based, in whole or in part, upon PacifiCorp's wholesale power transactions, PacifiCorp and MEHC acknowledge that the Commission has jurisdiction to determine the prudence of PacifiCorp's wholesale power transactions and whether PacifiCorp's retail rates are just and reasonable. To the extent PacifiCorp contends the Commission is required to include the costs of the wholesale power transactions in Utah retail rates, PacifiCorp and MEHC commit that PacifiCorp will raise and litigate such issues before the Commission. To the extent decisions regarding such issues are within the areas reserved to the exclusive jurisdiction of the Commission, PacifiCorp and MEHC agree that any challenge to the Commission order will be in the form of an appeal of that order.

In the event PacifiCorp anticipates a court challenge to a Commission order that would trigger the provisions of Commitment U 43, PacifiCorp will (1) seek a rehearing of such Commission order; and (2) identify in writing in its petition for rehearing those contested issues which it believes are and are not within the areas reserved to the exclusive jurisdiction of the Commission.

- U 44. MEHC and PacifiCorp support making wind generation in Utah an important part of PacifiCorp's renewable resource portfolio to the extent that it is cost-effective to do so. MEHC and PacifiCorp will give appropriate consideration to Utah wind generation in performing Commitments 40, 53, U 17 and U 31.
- U 45. a) MEHC and PacifiCorp commit to complete as soon as practical after close of the transaction, a system impact study and commence a facilities study to examine the feasibility of construction of transmission facilities from the Jim Bridger generating facilities to Ben Lomond.
- b) In addition to analyzing the system impacts of the Jim Bridger to Ben Lomond transmission facilities, MEHC and PacifiCorp will request that a system impact study also analyze the system impacts of combining the Bridger to Ben Lomond project with the Jim Bridger to Miners substation project addressed in Commitment 53.

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c) Upon receipt of the results of the system impact studies provided for in Commitment 53 and this Commitment U 45, MEHC or PacifiCorp will review and discuss with stakeholders the desirability and economic feasibility of performing a subsequent facilities study for the Bridger to Miners transmission project.

U 46. a) MEHC and PacifiCorp commit to reduce the annual non-fuel costs to PacifiCorp customers of the West Valley lease by \$0.417 million per month (total company) or an expected \$3.7 million in 2006 (assuming a March 31, 2006 transaction closing), \$5 million in 2007 and \$2.1 million in 2008 (the lease terminates May 31, 2008), which shall be the amounts of the total company rate credit. Beginning with the first month after the close of the transaction to purchase PacifiCorp, Utah's share of the monthly rate credit will be deferred for the benefit of customers and accrue interest at PacifiCorp's authorized rate of return.

b) This commitment is offsettable, on a prospective basis, to the extent PacifiCorp demonstrates to the Commission's satisfaction, in the context of a general rate case, that such West Valley non-fuel cost savings:

- i) are reflected in PacifiCorp's rates; and,
- ii) there are no offsetting actions or agreements by MEHC or PacifiCorp for which value is obtained by PPM or an affiliated company, which, directly or indirectly, increases the costs PacifiCorp would otherwise incur.