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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of PacifiCorp for Approval of its Proposed Electric Rate Schedules & Electric Service Regulations	Docket No. 06-035-21 REPLY OF THE UTAH DIVISION OF PUBLIC UTILITIES TO REQUEST OF ROGER BALL TO DENY MOTION AND REJECT STIPULATION
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The Utah Division of Public Utilities (“Division”) responds to the September 6, 2006 Request of Roger Ball to Deny Motion and Reject Stipulation (“Request”). The Request sets forth neither persuasive evidence nor valid arguments warranting denying the July 26, 2006 Motion for Approval of the Stipulation and denying July 21, 2006 Stipulation Regarding Revenue Requirement and Rate Spread (“Stipulation”). Moreover, the Request is untimely and should not be considered.

The Request offers no persuasive evidence to support its claim that the Stipulation will not result in just and reasonable rates and that approval of the Stipulation would not be in the public interest. The Request offers at great length comments regarding past rate increases sought, past rate case settlements, and

prior Commission rate orders in an attempt to show that this Stipulation does not result in just and reasonable rates nor is it in the public interest. Mere recitation of figures, highlighting the percentage increase sought and percentage increase granted by Commission order, is irrelevant to the current rate case and is insufficient to provide a basis for rejecting the Stipulation. Ratemaking is far more complex than attempting to base a rate increase on an analysis of past percentage of dollars requested and granted by the Commission. Each case must be considered on its own merits.

Baseless, too, is the argument seemingly advanced by the Request that a rate increase cannot be in the public interest. The evidence, such as additions of generating units caused by growth in Utah and rising operating expenses, and all the other evidence warrant in this case a finding that the rate increase is just and reasonable and in the public interest. These findings are supportable by the substantial testimony presented by the Division and other parties supporting the Stipulation. In particular the Division's evidence supports the conclusion that the Division and others audited the company's books and records, made appropriate adjustments and concluded that the stipulated rate increase will produce just and reasonable rates.

Also without support or substance is the Request's contention that there have been enough settlements and that a fully litigated case is required here. As clearly set forth in applicable statutes and case law, the public interest does not require full litigation of each case. Each case is to be considered on its merits to see if the outcome is in the public interest. The Utah Legislature determined that

settlement proposals can, and should, be adopted by the Commission under certain circumstances. See Utah Code Ann. § 54-7-1. Additionally, Utah case law has found that settlements before a regulatory agency can be proper. See *Utah Department of Administrative Services v. Public Service Commission*, 658 P.2d 601 (Utah 1983). Robust investigation and study leading to substantial testimony admitted in this docket support the Stipulation, satisfying the requirements of applicable statutes and case law. The Commission has before it the necessary evidence to determine whether the Stipulation produces just and reasonable rates and is in the public interest and if it believes it does not, it can request more or reject the stipulation.

Equally meritless are the Request's contentions that the Division has failed to comply with its statutory duty. As can be seen by the record in this case and the substantial testimony supporting the Stipulation, the Division has complied with its statutory duties and has fulfilled its responsibilities. Even the most casual and cursory examination of the record and evidence in this case demonstrates that the Division has provided the Commission with comprehensive, objective information and evidence. Other assertions tucked in the Request concerning the Division regarding public input are unfounded. The Stipulation was filed long before the hearing date requesting approval. An opportunity for public witness testimony was offered at the hearing.

Finally, the Request is untimely. In substance, the Request is a response to the Motion for Approval of the Stipulation, filed July 26, 2006, and therefore the Request fails to comply with the requirements of Utah Admin. Code R746-100-

4D and is fatally late. Additionally, the recitations set forth in the Request could have been raised at the hearing on the Stipulation. Thus, the Request should not be considered.

Therefore, for the reasons stated above, the Request should be denied and the Stipulation should be approved.

RESPECTFULLY SUBMITTED this _____ day of September 2006.

Michael L. Ginsberg
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of Public Utilities

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing REPLY OF THE UTAH DIVISION OF PUBLIC UTILITIES TO REQUEST OF ROGER BALL TO DENY MOTION AND REJECT STIPULATION to be served upon the following via Electronic mail at the addresses below on September 14th, 2006:

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