Roger J Ball
1375 Vintry Lane
Salt Lake City, Utah 84121
(801) 277-1375

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of PacifiCorp for Approval of its Proposed Electric Service Schedules and Regulations	Docket No 06-035-21 REQUEST TO DENY MOTION AND REJECT STIPULATION

I respectfully request that the Commission denies PacifiCorp's Motion for Approval of Stipulation dated 26 July 2006 and rejects the associated Stipulation Regarding Revenue Requirement and Rate Spread dated 21 July 2006 in this Docket.

PacifiCorp has not proven that the Stipulation would result in just and reasonable rates, or that its approval and adoption by the Commission would be in the public interest. In fact, it is evident that approval and adoption would not be in the public interest, and it remains in question whether the resultant rates would be just and reasonable.

According to data published on the Commission's own website, from 10 March 1992 until 25 May 2000 PacifiCorp's Utah rates were only decreased.

In Docket 99-035-10, PacifiCorp asked for an additional $67 million. After litigated proceedings, the Commission approved a $17 million increase, little more than 25% of the requested amount, and slightly more than a 4% rise in the typical residential average bill.

In Docket 01-035-01, PacifiCorp sought $142 million, and the Commission ordered an interim increase of $70 million with effect from 2 February 2001, the typical residential average bill rising by about 9.6%. This case was subsequently conflated with three other dockets (01-035-23, -29 and -36) relating to excess power costs, in which PacifiCorp requested a total of $308 million. This complex of cases was ultimately settled by agreement between the parties in a way that obscures comparison of the overall increase in the utility's revenue requirement with the amount it requested, but the total effect of the Commission's orders was that the typical residential average bill rose by about 10.6% (including the effect of the interim increase, above).

In Docket 03-2035-02, the Commission approved a stipulation that put into effect on 1 April 2004 an increase that was 52% of the amount PacifiCorp had sought, and in Docket 04-035-42 a further stipulation boosting rates by about 46% of the utility's request. These orders increased the typical residential average bill by 5.3% and 3.9% respectively.

In this present Docket, PacifiCorp originally asked that its revenue requirement rise by $197 million. The stipulation proposes $115 million in two stages, 58% of the initial application amount and a 10.3% increase in residential class revenue.

In sum, the typical residential average bill has increased by 21.4% since the Commission last determined a fully-litigated PacifiCorp rate case, one in which the utility received only a quarter of its request. In two subsequent cases with stipulated outcomes, it received around one-half. This Stipulation proposed significantly more

than a half. One can reasonably conjecture what signals for future applications might be read were it to be approved by the Commission.

If this Stipulation is approved, PacifiCorp's total sales to ultimate customers will be set to increase by more than 31% – and if that percentage class increase eventually transfers to the typical residential average bill, the latter can expect to experience a rise of almost 34% – since the last fully-litigated case.

Customers and members of the public may reasonably ask whether there is a point at which there have been enough settlements (negotiated privately by the parties with all of the details and positions and compromises sealed under covenants of confidentiality), and when a comprehensive public investigation and determination should take place. I respectfully encourage the Commission to find that that point has been arrived at. A typical residential average bill that has already increased by more than 20% since the last fully-litigated case has grown more than enough without thorough Commission examination in the full light of public scrutiny.

Moreover, both the dollar amount and the percentage of the original request being proposed are greater than previously. In fact, this agreement would see rates increased by almost as many dollars ($115M) as the previous two settlements combined ($116M). And the stipulated amount is 77% higher than in the previous highest settled case, $65M in Docket 03-2035-02. These are alarming trends, and ones that the Division of Public Utilities, in answer to cross-examination on 28 August 2006, made clear it was unaware of.

In particular, the Division is required by statute "to provide the Public Service Commission with objective and comprehensive information, evidence, and recommendations" (UCA 54-4a-6). Provision of a settlement recommendation does not satisfy the requirements regarding "objective and comprehensive information (and) evidence". Yet the Division appeared nonplussed by my question on 28 August about the possibility of its serial negotiation of settlements usurping the Commission's authority to hear all aspects and determine a case. The Division may have satisfied itself that the Stipulation will result in just and reasonable rates. It may even prove to be right in such a conclusion. But the evidence has not been fully entered into the Commission's record, and the Division is not the tryer of fact.

The Commission is the tryer of fact with regard to whether rates are just and reasonable. Notwithstanding statutory encouragement for parties to settle matters, the number of moving parts in a case such as this, the inevitable differences of opinion between parties on each of them individually, and the consequent compromises that have been made by the stipulants to arrive at this "black box" settlement, make it impossible for the Commission to determine independently and on the basis of substantial evidence that this Stipulation will result in just and reasonable rates. It can only do so on the basis of the assurances offered in testimony by the stipulants that it will. But assurances are not evidence.

The Division is funded entirely by utility customers. It has greater resources than any entity other than the utilities themselves to investigate and to develop information, evidence and recommendations. The Committee of Consumer Services has just a

fraction of the resources of the Division, and spends only about $1 for every $7 spent by the utilities on regulatory matters.

If the Commission will not hold the Division to its statutory duty, where else can customers turn to ensure that the Commission can base its decisions on full information? I respectfully urge the Commission to require the Division to bring this Docket to full development by, inter alia, denying the Motion and rejecting the Stipulation. That would enable the Commission to assure itself, and the public it serves, that the rates it finally puts into effect will indeed be just and reasonable.

As to the public interest, I respectfully exhort the Commission to examine this case in great detail, to assure itself that the public interest is indeed met by the consequent rates. It has become routine for utility, Division and Committee policy witnesses to assert that stipulations are in the public interest.

The reality was exposed during the 28 August Hearing, when none of those witnesses could describe any criteria that they had used to assess whether this Stipulation was in the public interest. Mr Reeder attempted to deflect the question with his own definition of the public interest, but without providing a shred of evidence that any of the utility, Division or Committee had given a moment's thought to the issue. For them, such assertions are clearly no more than formulaic.

It is noteworthy that none of these parties – neither a public utility such as PacifiCorp, nor public agencies such as the Division and Committee – think it worthwhile to inform or consult the public before asserting that something is in the public interest that they

have clearly decided will serve their own interests. Particularly the Committee, which offers the staggering rationale that it need pay no attention to the views of PacifiCorp's actual 670,000 residential or 65,000 small commercial customers because 6 people appointed by the governor are mandated to decide what is best for us.

The Commission should give no weight to the utility's, Division's or Committee's casual assertions of public interest, but should insist upon ascertaining for itself, based upon substantial evidence, what rates are justified by all the utility's costs and revenues, examined separately and only then taken together. That is what would be in the public interest.

It is patently not in the public interest that a further rate increase – taking the cumulative from more than 20% to in excess of 30%, a total of $318 million – should be approved and adopted almost entirely on the basis of negotiations that the parties to them have agreed must be kept secret, warranties of just and reasonable rates that are unproven by substantial evidence, and assurances regarding the public interest that are ungrounded in any principle or analysis.

Please deny PacifiCorp's Motion for Approval of Stipulation and reject the associated Stipulation Regarding Revenue Requirement and Rate Spread.

Respectfully submitted on 6 September 2006,

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Roger J Ball

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Request to Intervene in Docket 06-035-21 of Roger J Ball was mailed electronically on 6 September 2006, to the following:

Claire Geddes
geddes@xmission.com
3542 Honeycomb Road
Salt Lake City, Utah 84121
(801) 943-3654

For Utah Ratepayers Alliance

Betsy Wolf
bwolf@slcap.org
Salt Lake Community Action Program
764 S 200 West
Salt Lake City, Utah 84101
(801) 359-2444 ext 223
(801) 355-1798 (fax)

Peter J. Mattheis
pjm@bbrslaw.com
Brickfield Burchette Ritts & Stone
1025 Thomas Jefferson Street NW
Washington, DC 20007

Arthur F. Sandack
asandack@itower.net
8 East Broadway, Suite 510
Salt Lake City, UT 84111

Lee Brown
lbrown@Magnesiumcorp.com
US Magnesium LLC
239 North 2200 West
Salt Lake City, UT 84116

Laura Polacheck
lpolacheck@aarp.org
AARP Utah
6975 S Union Park Center, Suite 320
Midvale, Utah 84047
(801) 567-2643
(801) 561-2209 (fax)

Coralette M Hannon
channon@aarp.org
6705 Reedy Creek Road
Charlotte, North Carolina 28215
(704) 545-6187

For AARP

Dale F Gardiner
dfgardiner@parrylaw.com
Parry, Anderson & Gardiner PC
60 E South Temple, Suite 1200
Salt Lake City, Utah 84111
(801) 521-3434
(801) 521-3484 (fax)

Attorney for AARP

Thomas W Forsgren
twforsgren@msn.com
2868 Jennie Lane
Holladay, Utah 84117
(801) 272-2287

Attorney for AARP

Dan Gimble
(801) 530-6798
dgimble@utah.gov
Cheryl Murray
(801) 530-6957
cmurray@utah.gov
Utah Committee of Consumer Services
Heber M Wells Building, 2nd Floor
160 E 300 South
Salt Lake City, Utah 84111
(801) 530-7655 (fax)

Reed T. Warnick (3391)
(801) 366-0327
rwarnick@utah.gov
Paul Proctor (2657)
(801) 366-0552
pproctor@utah.gov
Assistant Attorneys General
Heber M Wells Building, 5th Floor
160 East 300 South
Salt Lake City, Utah 84111
(801) 366-0352 (fax)

Attorneys for the Utah Committee of Consumer Services

Gerald H. Kinghorn
ghk@pkhlawyers.com
Parsons Kinghorn Harris, P.C.
111 East Broadway, 11th Floor
Salt Lake City, UT 84111

Marco Kunz
marco.kunz@slcgov.com
Salt Lake City Corporation

Ronald J. Day
dayr@cvwrf.org
Central Valley Water

Gary A. Dodge (0897)
(801) 363-6363
gdodge@hjdlaw.com
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
(801) 363-6666 (fax)

Attorney for UAE Intervention Group

Rick Anderson
randerson@energystrat.com
Kevin Higgins
khiggins@energystrat.com
Energy Strategies
215 S State Street, Suite 200
Salt Lake City, UT 84111
(801) 355-4365
(801) 521-9142 (fax)

For UAE Intervention Group

F Robert Reeder
bobreeder@pblutah.com
Vicki Baldwin
vbaldwin@pblutah.com
Parsons, Behle & Latimer
201 S Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 532-1234
(801) 536-6111 (fax)

Attorneys for UIEC

Michael L. Kurtz
mkurtz@bkllawfirm.com
Kroger

Constance White, Director
(801) 530-6659
cbwhite@utah.gov
William Powell
(801) 530-6032
wpowell@utah.gov
Dennis Miller
(801) 530-6657
dennismiller@utah.gov
Utah Division of Public Utilities
Heber M Wells Building, 4th Floor
160 E 300 South
Salt Lake City, Utah 84111
(801) 530-6512 (fax)

Michael Ginsberg (4516)
(801) 366-0353
mginsberg@utah.gov
Patricia E Schmid (4908)
(801) 366-0380
pschmid@utah.gov
Assistant Attorneys General
Heber M Wells Building, 5th Floor
160 East 300 South
Salt Lake City, Utah 84111
(801) 366-0352 (fax)

Attorneys for the Utah Division of Public Utilities

Colleen Larkin Bell
Colleen.bell@questar.com
Questar Gas Company

Lt. Col. Karen White
Karen.white@tyndall.af.mil
FEA

Jeff Larsen
jeff.larsen@pacificorp.com
Dave Taylor
dave.taylor@pacificorp.com
PacifiCorp
201 S Main Street, Suite 2300
Salt Lake City, Utah 84111-2300
(801) 220-4907
(801) 220-3116 (fax)

Data Request Response Center
datarequest@pacificorp.com
PacifiCorp
825 NE Multnomah, Suite 800
Portland, Oregon 97232
(503) 813-6060 (fax)

Edward A Hunter
eahunter@stoel.com
Jennifer H Martin
jhmartin@stoel.com
Stoel Rives LLP
201 S Main Street
Salt Lake City, Utah 84111-4904
(801) 578-6936
(801) 578-6999 (fax)

Attorneys for PacifiCorp

Roger Swenson
Roger.swenson@prodigy.net
US Magnesium

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Roger J Ball