

F. ROBERT REEDER (2710)  
VICKI M. BALDWIN (8532)  
PARSONS BEHLE & LATIMER  
Attorneys for UIEC, an Intervention Group  
One Utah Center  
201 South Main Street, Suite 1800  
Post Office Box 45898  
Salt Lake City, UT 84145-0898  
Telephone: (801) 532-1234  
Facsimile: (801) 536-6111

---

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

---

In the Matter of the Application of PACIFICORP for Approval of the Intercompany Administrative Services Agreement with MidAmerican Energy Holdings Company.	DOCKET NO. 06-035-40  <b>COMMENTS OF THE UTAH INDUSTRIAL ENERGY CONSUMERS</b>
---	---

---

Pursuant to the Order of the Utah Public Service Commission (“Commission”) issued May 31, 2006, the Utah Industrial Energy Consumers (“UIEC”) hereby submit the following Comments.

**COMMENTS**

Pursuant to the Merger Commitments stipulated to by the parties and approved by the Commission during the course of the acquisition of PacifiCorp by MidAmerican Energy Holdings Company (“MEHC”), PacifiCorp and MEHC filed a copy of their Intercompany Administrative Services Agreement (“IASA”) after the closing of the acquisition. Paragraph 13 of the Merger Commitments states that the IASA “will include the corporate and affiliate cost allocation methodologies.” Paragraph U21 of the Merger Commitments states: “MEHC and

PacifiCorp will request Commission approval, for cost allocation and affiliate transaction purposes, of the IASA and any amendments filed pursuant to Commitment 13.”

The IASA only addresses administrative services. It does not address all the other myriad possible corporate and affiliate transaction cost methodologies, which should be subject to full, transparent disclosure.

While it is true that the types of services included in the IASA may be charged at cost, as suggested in the IASA, FERC’s new rules require that non-power goods and services transactions with non-regulated special affiliates, such as fuel supply, construction, or real estate, use FERC’s lower of cost or market pricing.<sup>1</sup> 113 FERC ¶ 61,248, Docket No. RM05-32-000, Order No. 665 at ¶ 171 (Dec. 8, 2005). The FERC noted that its long-standing policy is that special-purpose subsidiaries must provide non-power goods and services to a public utility regulated by the Commission at a price no higher than market. Id. at ¶ 157. FERC’s concern and jurisdictional responsibilities relate to how the costs are allocated to and among FERC-jurisdictional companies. Id. at ¶ 167. Due to the greater risk of inappropriate cross-subsidization and adverse effects on rates that exist with transactions involving non-regulated, affiliated special-purpose companies, FERC has decided that such transactions must be at the lower of cost or market. Id. at ¶ 171.

With the repeal of the Public Utilities Holding Company Act (“PUHCA”) of 1935, much of the affiliate oversight formerly conducted by the Securities Exchange Commission was passed

---

<sup>1</sup> This is for situations in which the affiliated special-purpose company is providing non-power goods and services to the public utility affiliate. For the reverse, the pricing must be no less than cost, i.e. the higher of cost or market. 113 FERC ¶ 61,248, Docket No. RM05-32-000, Order No. 665 at ¶ 171 (Dec. 8, 2005).

onto the state level. Utah's statutory and regulatory provisions do not ensure that all affiliate transactions are disclosed to interested parties in a timely transparent way. Affiliate transactions should be filed openly and made available to the public so they can be examined to determine whether they are consistent with our expectations of the reasonable costs to be assumed by the ratepayers of PacifiCorp.

The IASA gives no indication how affiliate transactions other than general administrative transactions will be priced and there is no guarantee that parties will be made privy to this type of information in a transparent fashion. Also, the IASA is by and between MEHC and its subsidiaries. It does not include Berkshire Hathaway. It may be anticipated that Berkshire Hathaway will not provide administrative services of the type covered by the IASA, but Berkshire Hathaway is a huge group and there are many services that could be provided to PacifiCorp by Berkshire Hathaway, e.g., insurance. There is no indication how these types of transactions will be priced, nor is there a guarantee of disclosure and transparency to other parties.

In addition, during a technical conference in this proceeding, MEHC provided to interested parties a copy of its Tax Allocation Agreement ("TAA"). The TAA is by and between Berkshire Hathaway, MEHC, and MEHC's direct subsidiaries. However, it does not include PacifiCorp. It was executed immediately upon the repeal of PUHCA of 1935, which was before PacifiCorp became a subsidiary of MEHC. Thus, it is unknown whether in the course of negotiating a new agreement to include PacifiCorp, it will be changed in any way. Also, there is

no guarantee that upon execution any such document will be shared with the Commission or other parties.

The UIEC do not object to the Commission approving the IASA, but, as explained above, it is not complete. Therefore, the UIEC believe that all affiliate transactional documents should be filed with the Commission for approval as well as served on all parties of record in the MEHC/PacifiCorp acquisition docket, Docket No. 05-035-54. This includes a copy of any TAA that is signed by PacifiCorp.

Accordingly, the UIEC request that in approving the IASA, the Commission also order PacifiCorp to file with the Commission for approval and serve on all parties of record in Docket No. 05-035-54 a copy of all affiliate transaction agreements as they are executed.

DATED this \_\_\_\_\_ day of June, 2006.

---

F. ROBERT REEDER  
VICKI M. BALDWIN  
Attorneys for UIEC, an Intervention Group

## CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of June, 2006, I caused to be e-mailed and/or mailed, first class, postage prepaid, a true and correct copy of the foregoing **COMMENTS OF THE UTAH INDUSTRIAL ENERGY CONSUMERS**, to:

Edward Hunter /Jennifer Horan  
STOEL RIVES LLP  
Attorneys for PacifiCorp  
201 South Main Street Suite 1100  
Salt Lake City, Utah 84111  
[jhmartin@stoel.com](mailto:jhmartin@stoel.com)  
[eahunter@stoel.com](mailto:eahunter@stoel.com)

Michael Ginsberg  
ASSISTANT ATTORNEY GENERAL  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111  
[mginsberg@utah.gov](mailto:mginsberg@utah.gov)

PacifiCorp Data Request Response Center  
825 NE Multnomah, Suite 800  
Portland, OR 97232  
[Datarequest@pacificorp.com](mailto:Datarequest@pacificorp.com)

[Barry.bell@pacificorp.com](mailto:Barry.bell@pacificorp.com)

Reid Warnick  
ASSISTANT ATTORNEY GENERAL  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111  
[rwarnick@utah.gov](mailto:rwarnick@utah.gov)

Andrea L. Kelly  
Managing Director – Strategy  
PacifiCorp  
825 NE Multnomah, Suite 956  
Portland, Oregon 97232  
[Andrea.kelly@pacificorp.com](mailto:Andrea.kelly@pacificorp.com)

Douglas L. Anderson  
Senior Vice President & General Counsel  
MidAmerican Energy Holdings Company  
302 S. 36th Street, Suite 400  
Omaha, Nebraska 68131  
[danderson@midamerican.com](mailto:danderson@midamerican.com)

Mark C. Moench  
Senior Vice President – Law  
MidAmerican Energy Holdings Company  
201 South Main, Suite 2300  
Salt Lake City, Utah 84111  
[mcmoench@midamerican.com](mailto:mcmoench@midamerican.com)

Dennis Miller  
Division of Public Utilities  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111  
[dennismiller@utah.gov](mailto:dennismiller@utah.gov)

William Powell  
Division of Public Utilities  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111  
[WPowell@utah.gov](mailto:WPowell@utah.gov)

Cheryl Murray  
Committee of Consumer Services  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111  
[cmurray@utah.gov](mailto:cmurray@utah.gov)

Peter J. Mattheis  
Eric J. Lacey  
Brickfield Burchette Ritts Stone  
1025 Thomas Jefferson Street, N.W.  
800 West Tower  
Washington, DC 20007  
[pjm@bbrslaw.com](mailto:pjm@bbrslaw.com)

Utah Ratepayers Alliance  
c/o Betsy Wolf  
Salt Lake Community Action Program  
764 South 200 West  
Salt Lake City, UT 84101  
[bwolf@slcap.org](mailto:bwolf@slcap.org)

Gary A. Dodge  
Hatch James & Dodge  
10 West Broadway, Suite 400  
Salt Lake City, UT 84101  
[gdodge@hjdllaw.com](mailto:gdodge@hjdllaw.com)

Matthew F. McNulty, III  
H. Michael Keller  
Sam Mezziani  
Van Cott Bagley Cornwall McCarthy  
50 South Main St., Suite 1600  
Salt Lake City, UT 84145  
[mmcnulty@vancott.com](mailto:mmcnulty@vancott.com)  
[mkeller@vancott.com](mailto:mkeller@vancott.com)  
[smeziani@vancott.com](mailto:smeziani@vancott.com)

Lee R. Brown  
Vice President  
US Magnesium LLC  
238 North 2200 West  
Salt Lake City, UT 84116  
[lbrown@usmagnesium.com](mailto:lbrown@usmagnesium.com)

Gerald H. Kinghorn  
Jeremy R. Cook  
Parsons Kinghorn Harris  
111 East Broadway, 11<sup>th</sup> Floor  
Salt Lake City, UT 84111  
[ghk@pkhlawyers.com](mailto:ghk@pkhlawyers.com)

Bruce Plenck  
[bplenck@igc.org](mailto:bplenck@igc.org)

Rick Anderson  
Scott Gutting  
Energy Strategies  
215 South State, St., Suite 200  
Salt Lake City, UT 84111  
[randerson@energystrat.com](mailto:randerson@energystrat.com)  
[sgutting@energystrat.com](mailto:sgutting@energystrat.com)

Marshall Empey  
Manager of Operations and Planning  
UAMPS  
2825 E. Cottonwood Pkwy., Suite 200  
Salt Lake City, UT 84121  
[marshall@uamps.com](mailto:marshall@uamps.com)

Sarah Wright  
Executive Director  
Utah Clean Energy  
917 2<sup>nd</sup> Avenue  
Salt Lake City, UT 84103  
[sarah@utahcleanenergy.org](mailto:sarah@utahcleanenergy.org)

David F. Crabtree  
Vice President and General Counsel  
Deseret Generation & Transmission Co-op  
10714 S. Jordan Gateway, Suite 300  
South Jordan, UT 84095  
[crabtree@deseretgt.com](mailto:crabtree@deseretgt.com)

Douglas Larson  
VP, Regulation PacifiCorp  
201 South Main St., Suite 2300  
Salt Lake City, UT 84111  
[Doug.larson@pacificorp.com](mailto:Doug.larson@pacificorp.com)

Michael L. Kurtz  
Boehm Kurtz & Lowry  
36 E. Seventh Street, Suite 1510  
Cincinnati, OH 45202  
[mkurtz@bklawfirm.com](mailto:mkurtz@bklawfirm.com)

Eric C. Guidry  
Western Resource Advocates  
2260 Baseline Rd., Suite 200  
Boulder, CO 80302  
[eguidry@westernresources.org](mailto:eguidry@westernresources.org)

Arthur F. Sandack  
8 East Broadway, Suite 510  
Salt Lake City, UT 84111  
[asandack@itower.net](mailto:asandack@itower.net)

Major Craig Paulson  
Utility Litigation Team  
AFLS/ULT  
139 Barnes Drive, Suite 1  
Tyndall AFB, FL 32403-5319  
[Craig.paulson@tyndall.af.mil](mailto:Craig.paulson@tyndall.af.mil)

Stephen Randle  
Randle, Deamer & Lee  
139 East South Temple, Suite 330  
Salt Lake City, UT 84111-1169  
[Ulaw@xmission.com](mailto:Ulaw@xmission.com)

---

Gail E. Moschini  
Assistant to Vicki M. Baldwin