



PacifiCorp agreed to imposition of the fourth and last of the Additional Requirements (“Fourth Requirement”). Under the Fourth Requirement, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Order at 4.

On February 6, 2015, counsel for Kennecott filed a letter (“Letter”) with the Commission in this docket expressing concern that the Order implies Kennecott authorized PacifiCorp to represent to the Commission that Kennecott had agreed to the Fourth Requirement. The Letter represents Kennecott did not and does not agree to the Fourth Requirement. Characterizing the Fourth Requirement as an “unlawful rule,” the Letter requests the Commission modify the Order by removing the Fourth Requirement or by providing that the Fourth Requirement will only apply [REDACTED] Letter at 2.

On February 10, 2015, the Commission issued a Notice of Filing of Request for Review or Rehearing and Comment Period, explaining the Commission would treat the Letter as a request for review or rehearing and allowing interested parties to submit comments in response to the Letter on or before February 23, 2015.

On February 23, 2015, the Office submitted a response (“Office’s Response”) to the Letter. The Office agrees PacifiCorp’s witness did not testify at the hearing that Kennecott had authorized him to convey Kennecott’s consent to the Fourth Requirement, but the Office points out PacifiCorp’s witness testified that PacifiCorp agreed to the Fourth Requirement. Office’s Response at 3-4. The Office further asserts the Fourth Requirement imposes an obligation

exclusively on PacifiCorp, requiring nothing of Kennecott, and that the information the Fourth Requirement requires PacifiCorp to provide “is information the Office and [the Division of Public Utilities] routinely require in special contract examinations.” *Id.* Finally, the Office notes Kennecott was aware of the Office’s recommendations and had an opportunity to intervene and provide a response but declined to do so. *Id.* at 4. The Office supports clarification of the Order to make clear Kennecott did not expressly assent to the Fourth Requirement but opposes any further modification to the Order.

PacifiCorp also filed a response to the Letter (PacifiCorp’s Response) on February 23, 2015, representing it “has reviewed the Office’s letter and is in agreement with the material facts, the response, and the conclusion contained therein.” PacifiCorp’s Response at 1. PacifiCorp further represented that it “continues to agree to the [Fourth Requirement] and agrees with the Office’s assertion that it is [PacifiCorp] who must comply with the [Fourth Requirement] and not Kennecott.” *Id.*

### **ORDER**

Having reviewed the Hearing transcript, the Commission concurs PacifiCorp’s witness did not testify that Kennecott had agreed to the Fourth Requirement. Accordingly, the Commission clarifies the Order to reflect PacifiCorp’s witness did not represent that Kennecott had agreed to the Fourth Requirement.

The Commission rejects Kennecott’s characterization of the Fourth Requirement as an “unlawful rule.” The Commission’s adoption of the Fourth Requirement in the Order did not create a “rule” but rather ordered PacifiCorp to provide additional information and/or

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explanation in connection with certain related filings in the future, thereby effecting and approving the Office's and PacifiCorp's agreement that the same would occur.

Accordingly, the Order is revised to let the record reflect PacifiCorp's witness testified Kennecott had authorized him to represent to the Commission that Kennecott had consented to the other Additional Requirements but PacifiCorp's witness made no mention of Kennecott's assent to the Fourth Requirement. The Order is otherwise unmodified and remains in full force and effect.

DATED at Salt Lake City, Utah, this 26<sup>th</sup> day of February, 2015.

/s/ Jordan A. White  
Presiding Officer

Approved and confirmed this 26<sup>th</sup> day of February, 2015, as the Order of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#263962

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Notice of Opportunity for Review

This Order constitutes final agency action. 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.

CERTIFICATE OF SERVICE

I CERTIFY that on the 26<sup>th</sup> day of February, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Data Request Response Center ([datarequest@pacificorp.com](mailto:datarequest@pacificorp.com))  
PacifiCorp

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Administrative Assistant