

fnh

RECORDED

'87 NOV 19 P4:50

STATE OF UTAH
SERVICE COMMISSION

Donald R. Allen, Esq.
John P. Williams, Esq.
DUNCAN, ALLEN AND MITCHELL
1575 Eye Street, N.W.
Washington, D.C. 20005
Telephone: (202) 289-8400

Dale A. Kimball, Esq.
Gary A. Dodge, Esq.
Jill A. Niederhauser, Esq.
KIMBALL, PARR, CROCKETT & WADDOUPS
185 South State Street
Suite 1300
P.O. Box 11019
Salt Lake City, Utah 84147
Telephone: (801) 532-7840

Attorneys for Petitioner Colorado River
Energy Distributors Association, Inc.

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION)
OF UTAH POWER & LIGHT COMPANY,)
AND PC/UP&L MERGING CORP. (TO BE) MOTION FOR RECONSIDERATION
RENAMED PACIFICORP) FOR AN ORDER) OF CREDA'S PETITION TO
AUTHORIZING THE MERGER OF UTAH) INTERVENE AND MEMORANDUM
POWER & LIGHT COMPANY AND) IN SUPPORT THEREOF
PACIFICORP INTO PC/UP&L MERGING)
CORP. AND AUTHORIZING THE ISSUANCE)
OF SECURITIES, ADOPTION OF TARIFFS,) Case No. 87-035-27
AND TRANSFER OF CERTIFICATES OF)
PUBLIC CONVENIENCE AND NECESSITY)
AND AUTHORITIES IN CONNECTION)
THEREWITH.)

MOTION FOR RECONSIDERATION

Colorado River Energy Distributors Association, Inc.
("CREDA") hereby moves that the Commission reconsider the portion
of its October 30, 1987 Order on Intervention which denied
CREDA's Petition to Intervene in the above-captioned proceeding.

MEMORANDUM IN SUPPORT OF CREDA'S MOTION TO RECONSIDER

BACKGROUND

On September 29, 1987, CREDA filed with the Commission a timely Notice of Intervention in the above-captioned proceeding. On October 15, 1987, CREDA filed its Statement of Position and Issues as requested by the Commission's Prehearing Conference Order. In its Statement of Position and Issues, CREDA set forth its position that the proposed merger between Utah Power & Light Co. ("UP&L") and PacifiCorp ("PP&L") is "contrary to the public interest, is anticompetitive, and will result in discriminatory rates, loss of effective regulation, and undue concentration of economic power and influence, [and is] contrary to state and federal policies which discourage monopolistic power and public utility holding company structures." [CREDA's Statement of Position at 2.]

On October 19, 1987, PP&L and UP&L (the "Applicants") filed an objection to CREDA's intervention, asserting that CREDA has no direct or substantial interest in this proceeding and that the issues CREDA seeks to raise are not within the jurisdiction of this Commission. CREDA's petition to intervene was one of several discussed at the October 19, 1987 prehearing conference before the Commission and the only petition to which the Applicants objected.

On October 30, 1987, the Commission issued an Order on

Intervention which, among other things, denied CREDA's Petition to Intervene. The Order stated:

We are of the view that CREDA as a whole does not belong in this case inasmuch as we do not intend to take up interstate matters which belong to other jurisdictions such as the FERC and the DOJ. Its presence in the case would likely lead to a major expansion of the issues before us. We do not believe that such expansion is consistent with administrative efficiency. Furthermore, CREDA lacks a direct and substantial interest in this case.

[Order on Intervention at 4-5.]

Commissioner Cameron dissented from the portion of the Commission's Order denying CREDA's Petition to Intervene and explained:

. . . CREDA is the only potential intervenor which opposes the merger at the outset of the case. . . ; therefore, I am uncomfortable with their preclusion.

* * *

. . . I would allow intervention. To exclude the one party specifically opposed to the merger may have the effect of limiting the information provided to us for our consideration. CREDA's Petition alleges direct and substantial interest which, even though addressed in other forums having primary jurisdiction may also be relevant to our proceeding. To exclude their presentation of information for our policy consideration, rather than for our enforcement is, I believe, an error.

I think the more appropriate way to deal with such issues is to give different weight to such evidence and argument at hearing and to address them in our yet-to-be issued order establishing the issues in this proceeding. Common sense tells me this merger may have a substantial impact on CREDA, and their ability to present their case in other forums at this time is speculation and should not be the reason for exclusion. In addition, I don't agree that because the majority of their members are entities outside of Utah State boundaries, that they lack a direct and substantial interest in the outcome of our proceeding.

By using our ability to control the hearing process, to group parties, and to establish the issues, the intervention of . . . CREDA need not unduly delay or prejudice the rights of the Applicants or other parties and they should be allowed intervention.

[Order on Intervention at 9-11 (emphasis in original).]

ARGUMENT

I. CREDA HAS A RIGHT TO INTERVENE IN THIS PROCEEDING

Intervention before this Commission is governed by Rule 6 of the Rules of Practice and Procedure Governing Formal Hearings Before The Public Service Commission of Utah (hereafter "Rules of Practice"). Subsection (d) of that Rule provides in relevant part:

Interest of Intervenors--If it appears when notice of intervention is filed . . . that an intervenor has no direct or substantial interest in the proceeding, or that the public interest does not require the intervenor's participation, the Commission may dismiss the intervenor from the proceeding. . . .

Rules of Practice, Rule 6(d).¹

In its Order on Intervention, the Commission identified several factors in denying CREDA's Petition to Intervene. These included: 1) a purported lack of direct and substantial interest

¹ The recently enacted Utah Administrative Procedures Act, which will become effective on January 1, 1988, contains a similar provision. It provides that a petition for intervention should be granted if the petitioner's legal interests may be substantially affected and if the interests of justice and the orderly and prompt conduct of the proceeding will not be materially impaired by allowing the intervention. See Utah Code Ann. §63-46(b)-9(2).

in this proceeding; 2) a fear that CREDA's presence would lead to an expansion of the issues before the Commission; and 3) the fact that other forums may consider some of the issues raised by CREDA.

CREDA submits that these factors do not support the Commission's denial of CREDA's Petition to Intervene. CREDA believes that it is entitled to intervenor status under the governing rule and that it is an abuse of discretion to exclude CREDA from participation in this proceeding, the outcome of which will have a direct and substantial effect on CREDA's interests. CREDA therefore respectfully urges this Commission to re-examine its Order on Intervention and grant CREDA's Petition to Intervene.

A. CREDA Has a Direct and Substantial Interest in These Proceedings

The Order on Intervention states that CREDA has no direct or substantial interest in this proceeding. CREDA respectfully disagrees. As was set forth in CREDA's Notice of Intervention, CREDA's members consist of 117 electric systems serving in the six states of Utah, Wyoming, Colorado, New Mexico, Arizona and Nevada. All CREDA members are preference customers of the Western Area Power Administration ("WAPA") and purchase from WAPA federal power produced at government projects in the Colorado River Basin. CREDA's members and their affiliated systems serve residential, commercial, industrial, and

11.] The effects of the proposed merger on rates, transmission access, concentration of economic power, competition and the effectiveness of regulation will be felt throughout the Western United States. The requested approval will thus have a direct and significant impact on both CREDA's Utah and non-Utah members and their associated utility systems.²

CREDA's interests are unique and will not be adequately represented by other parties before the Commission. CREDA is the only entity that can present and protect the collective interests of its membership. Although some of CREDA's Utah-based members and associated systems have individually intervened in this proceeding, each has intervened for the purpose of representing its own individual and specific interests--not those of CREDA members as a whole. Each has its own specific concerns and will undoubtedly approach the merger from varying perspectives. CREDA, on the other hand, seeks to represent the collective interests of its members, including those members not currently parties to this proceeding, and will approach the merger from a somewhat different perspective than will its individual members.

² For example, one aspect of the proposed merger that has the potential of significantly affecting Utah consumers involves the Applicants' representation that UP&L and PP&L will be maintained as separate divisions. CREDA questions whether it will be feasible to allocate costs and revenues between the UP&L and PP&L divisions in a way that will enable this Commission to assure the reasonableness of the new company's Utah retail rates and in a way that will enable the FERC to assure the reasonableness of the new company's wholesale and wheeling rates.

Moreover, as a regional organization consisting of numerous members and associated systems, CREDA has the resources and ability to provide the relevant information, studies and expert testimony necessary for the Commission to understand the issues CREDA seeks to raise.

B. CREDA's Intervention Would Not Broaden
The Issues or Delay This Proceeding

CREDA has no desire to unduly broaden the record, delay this proceeding or ask the Commission to expand its jurisdiction. Rather, CREDA seeks intervention in order to raise and explain potential impacts of the merger that may be felt both in Utah and elsewhere.

The Applicants have identified enhanced opportunities for wholesale power sales, consolidation of interstate transmission systems and increased economic power as important results of the proposed merger which will allegedly benefit the interests of Utah consumers. [Application at 11-12.] Thus, the Applicants themselves have recognized that consideration of the impacts of the proposed merger will require an assessment of the way in which the merged utility will operate in the Intermountain and Western regions. CREDA's position is based on that same recognition--that the determination as to whether the proposed merger is in the "public interest" must necessarily encompass an examination of all of the ways in which the merger will affect the public interest.

CREDA submits, and seeks to be given the chance to demonstrate, that the concerns of CREDA should be shared by this Commission and should be examined by this Commission in discharging its statutory duty to protect the public interest of Utah. This Commission is not required to operate in a factual vacuum. CREDA submits that, in determining whether the merger is in the public interest, this Commission is authorized to consider all significant impacts of the merger, to deny approval if such impacts are not in the public interest, or to condition approval on such conditions as may be appropriate to alleviate such impacts.

While CREDA submits that its participation in this proceeding is essential to a fair and proper resolution of the issues before the Commission, CREDA is also sensitive to the Commission's concern that the issues before it not be unduly broadened. However, CREDA believes that it was improper for the Commission to address those concerns by totally excluding CREDA's participation in this matter.

The Commission has already recognized that grouping parties with similar interests will alleviate the administrative burden associated with numerous intervenors in a proceeding. CREDA could be grouped with the Utah Municipal Power Agency, the only other competitor that has expressed opposition to the proposed merger. Such an approach would allow CREDA to participate without increasing the administrative burden on the

Commission.

To the extent that the Commission is concerned with the potential of undue broadening of issues, CREDA submits that these concerns can also be addressed without excluding CREDA's participation. Commissioner Cameron identified one such approach in his dissenting opinion when he suggested that the Commission could address its concerns over the breadth of this proceeding in its "yet-to-be-issued order establishing the issues in this proceeding." By allowing CREDA intervention and then limiting the issues relevant to the Commission's consideration, the Commission could insure a variety of perspectives on the relevant issues and would not risk either undue delay or the presentation of irrelevant material.³

C. The Commission's Duty to Protect the
Public Interest Encompasses the Duty
to Examine the Issues Raised by CREDA

The Commission's Order on Intervention stated that the Commission did not intend to "take up" matters that belong to the Federal Energy Regulatory Commission ("FERC") and the Department of Justice ("DOJ").⁴ [Order on Intervention at 4.] Applicants

³ Such an approach was adopted by the public service commissions of Montana and Wyoming in orders allowing CREDA's intervention. Copies of these orders are attached hereto as exhibits "A" and "B" respectively.

⁴ Applicants' assertion that CREDA's concerns regarding competition can be addressed before the DOJ is without basis. A provision of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a, requires that a premerger notification be

have asserted that CREDA is asking this Commission to consider issues that are within the exclusive domain of these federal agencies. Such is not the case.⁵ CREDA has never suggested that

filed with the DOJ and the Federal Trade Commission ("FTC") at least 30 days prior to the effective date of the merger. However, there are no formal procedures or hearings before these agencies. There is therefore no chance for intervention or presentation of evidence by affected parties and no formal approval or disapproval is required. The premerger notifications are confidential and may not be made public. While the agencies have the option of filing a federal action to enjoin the merger, failure to bring a pre-emptive action does not constitute "approval" of the merger or insulate it from future actions under other antitrust laws. In short, there are no "proceedings" before the DOJ or the FTC and the anticompetitive effects of the merger as they affect the public interest in Utah are properly before this Commission.

⁵ Applicants have also asserted that the FERC is without authority to consider at least one of the issues raised by CREDA --the impact of the combined transmission system on the retail rates of PP&L and UP&L. In Utah Power & Light Company's Answer to Certain Protests filed in the FERC on November 16, 1987, UP&L stated as follows:

CREDA also raises issues with respect to the retail rates of both companies. . . .This, however, is not a proper subject for hearing before the FERC. State regulatory commissions are in the process of reviewing the merger, and as a result, will determine the impact on retail rates and the appropriate allocation of costs. The issue of retail rates is within the exclusive jurisdiction of the state commissions. The appropriate recourse is there. . . CREDA has intervened in Idaho, Montana and Wyoming and its interests can be represented in those jurisdictions.

Utah Power & Light Company's Answer, FERC Docket No. EC88-2-000 at 5-6. The applicants thus acknowledge that this issue should be raised in the three referenced states, but apparently they do not think Utah should address it. Furthermore, the applicants unsuccessfully objected to the intervention of CREDA in the three referenced states. The applicants apparently hoped to preclude all regulatory bodies from considering CREDA's concerns in this area.

this Commission intrude into FERC's exclusive arena to set wholesale or wheeling rates or to regulate interstate transmission.⁶ This Commission, however, is the only regulatory body that will examine the effects of the merger on Utah specifically. The areas of exclusive federal jurisdiction do not limit the jurisdiction of this Commission to examine and protect Utah's public interest.⁷ The Commission is not being asked to set wholesale or wheeling rates or resolve disputes over interstate transmission issues, but rather to consider important potential effects of the merger that may affect Utah, as well as the entire Western United States.

⁶ The closely-related, overlapping, and sometimes confusing areas of FERC and state jurisdiction at times create questions about the proper scope and extent of a particular proceeding. While Part 2 of the Federal Power Act gives the FERC the jurisdiction to regulate wholesale transactions and interstate transmission, such jurisdiction in no way limits or diminishes this Commission's jurisdiction to address the potential impacts of the merger on transmission policies, wholesale sales and similar matters, and how those impacts will affect utilities and ratepayers in Utah.

⁷ In briefing the commissions of other jurisdictions, Applicants have cited Nantahala Power & Light Co. v. Thornburg, 476 U.S. 953, 106 S.Ct. 2349 (1986), and Federal Power Comm'n v. So. Cal. Edison Co., 376 U.S. 205 (1964), in support of their argument that state commissions do not have jurisdiction to consider the issues raised by CREDA. These cases, however, stand only for the limited proposition that state utilities commissions cannot review and reject FERC-approved utility rates. See Nantahala, 106 S.Ct. at 2356. They do not imply that a state commission is without authority to consider the potential impacts of transmission and wholesale power sales on state regulated rates in the context of an application to approve the transfer of utility property.

II. CREDA IS CONSTITUTIONALLY ENTITLED
TO PARTICIPATE IN THIS PROCEEDING.

CREDA's participation in this proceeding is mandated not only because CREDA meets the requirements of the rule governing intervention, but also because CREDA's exclusion from these proceedings constitutes a violation of CREDA's due process rights.

Due process protections apply to administrative, as well as to judicial proceedings. Entre Nous Club v. Toronto, 287 P.2d 670, 672 (1955). Due process requires that administrative hearings must have the following elements:

(1) a reasonable time and place for hearing where interested parties may attend with reasonable effort;

* * *

(2) reasonable notice to interested parties; and

* * *

(3) a reasonable opportunity for presentation of such evidence and argument as are appropriate to the proceeding. . . .

Id. quoting Chamber of Commerce v. Federal Trade Commission, 13 F.2d 673, 683 (8th Cir. 1926).

CREDA submits that analogous case law establishes that competitors have the right to be heard in administrative proceedings such as the one before the Commission in this case. In Virginia Petroleum Jobbers Association v. Federal Power Commission, 265 F.2d 364 (D.C. Cir. 1959), the Court of Appeals for the District of Columbia Circuit confronted the issue of whether suppliers of fuel oil were entitled to intervene in a

Federal Power Commission proceeding involving the distribution rights of a natural gas distributor. In concluding that the suppliers were entitled to intervention, the court relied on precedent holding that competitors of regulated entities could qualify as "aggrieved" persons entitled to appeal agency decisions under the Federal Communications Act and the Natural Gas Act. The court stated:

As a result of the gas service from Atlantic to Blue Ridge, which has been ordered by the Commission, fuel oil dealt in by Jobbers' members will be in competition with natural gas introduced into a new market through interstate commerce. They will be directly competing for fuel reserves with both Blue Ridge and Atlantic, the latter being subject to the jurisdiction of the Power Commission. We hold, therefore, that their Association had a right to intervene in the proceedings before the federal commission . . . since the right to appeal from an order presupposes participation in the proceedings which led to it.

265 F.2d at 367-68 (emphasis added).⁸

Similarly, in S.M. Gaddis v. Great Northern Railway Company, 284 F.2d 524 (9th Cir. 1960), the Ninth Circuit Court of Appeals held that a group of railroads was entitled to participate in proceedings before the Interstate Commerce Commission involving a proposed merger of two large motor carriers. In so doing, the court cited with approval the finding and reasoning of the district court:

⁸ Like the Federal Communications Act and the Natural Gas Act, the newly enacted Utah Administrative Procedures Act provides that an "aggrieved" party may obtain judicial review of agency action. See Utah Code Ann. §63-46b-14(1).

We find that the proposed acquisition of Hunt by Consolidated, taken in the context of Consolidated's overall plan, posed a potential threat to the railroads' competitive situation, qualified the railroads as parties in interest and justified their participation in the hearings in connection with such acquisition. As parties in interest it was immaterial whether they were motivated by public spirit or by self-interest. They were privileged to appear for the very purpose of which plaintiffs complain, "to thwart the further expansion of Consolidated."

S.M. Gaddis v. Great Northern Railway Company, 187 F. Supp. 918, 919 (D. Ore. 1959) aff'd, 284 F.2d 524 (9th Cir. 1960).

In situations involving regulated monopolies, such as a utility or a common carrier, regulatory agencies are required to consider the interests of competitors in assessing activities that have a potential impact on the regulated market. In McCarthy v. Public Service Commission of Utah, 77 P.2d 331 (Utah 1938), the Utah Supreme Court recognized the rights of a competitor to participate in a proceeding involving an application for a common carrier license. The court stated:

In quality, plaintiffs' interest in opposing the application is exactly the same as that of the Company in maintaining it, namely, the effect thereof upon their prospect for earning money in their business. . . . True, no carrier has a property interest in any specific business or shipment until he actually gets it, connects with it, appropriates it, by contracting therefor with the shipper. But he is entitled to his chance as a competitor at all the business there is as against anyone proceeding unlawfully or without due authorization of the statute to divert or appropriate any part of it.

77 P.2d at 335. See also, Ventura County Waterworks v. Public Utilities Commission, 393 P.2d 168, 169 (Cal. 1964) (while a

utility has no right to be protected from competition, it is entitled to a hearing before the commission can grant a certificate of public convenience and necessity to a competitor).

The principles underlying the Utah Supreme Court's decision in McCarthy are similarly applicable here. Like the common carriers in McCarthy, UP&L is a regulated monopoly--having the exclusive right to serve consumers in specified areas and the right to control access to the majority of high voltage electric transmission in the State of Utah. The ruling of this Commission on the proposed merger will have a significant impact on CREDA and other competitors. This Commission should be made aware of these issues and concerns so that it can properly discharge its obligations to protect the public interest in Utah. CREDA is entitled to participate and air its concerns:

The evolving law makes it no longer accurate to assert in agencies a discretionary power to permit participation in their proceedings. The right to be heard may not be limited to the "obvious party." The competitor and the consumer must now be considered "parties in interest" in cases that affect their competitive or consumer interests. They have a right to participate that may not be limited to the writing of letters or to second-class appearance as a matter of grace at hearings. The agency still possesses discretion to establish rules governing participation. Thus, it may lay down rules for determining which consumers or community representatives are to be allowed to participate; it may require consolidation of petitions and briefs to avoid multiplicity of parties and duplication of effort; and it may control the proceeding so that all participants are required to adhere to the issues and refrain from introducing cumulative or irrelevant evidence. But it may no longer completely exclude persons who have a substantial interest in the proceeding. "Any

interested person" now has the right to intervene in an agency proceeding "so far as the orderly conduct of public business permits."

B. Schwartz, Administrative Law, §6.1 at 276 (2d ed. 1984) (emphasis added and footnotes omitted).

III. CREDA'S PARTICIPATION WILL AID THE
COMMISSION IN ASSESSING THE POTENTIAL
IMPACTS OF THE PROPOSED MERGER

CREDA's Petition to Intervene should be granted not only because CREDA is entitled to intervention, but also because CREDA's participation will be helpful to this Commission's evaluation of the way in which the proposed merger will affect the public interest.

The proposed merger between PP&L and UP&L is of unprecedented significance to the State of Utah and to this Commission. UP&L, the only investor-owned electric utility in the State of Utah, currently owns and operates 7,778 miles of transmission lines and serves an average of approximately 510,000 retail customers in three western states. PP&L owns and operates 20,600 miles of transmission lines and serves an average of approximately 670,000 retail customers in six Western states.

UP&L currently is an operating electric utility with only one subsidiary and is headquartered in Salt Lake City. As a result of the proposed merger, UP&L would become an operating division of a diversified corporation headquartered in Portland, Oregon with approximately 118 directly and indirectly controlled

subsidiaries (the existing subsidiaries of PacifiCorp Maine). Those companies operate across the country in three industry segments other than the electric utility business: telecommunications, mining and resource development, and commercial financial services.

The approval sought from this Commission has the potential to radically transform the electric utility industry in Utah and to affect UP&L's and PP&L's competitors as well as other related industries. In addition, the proposed merger could have significant ramifications on the regulatory methods and abilities of this Commission. It is therefore essential that the Commission examine all potential impacts of the proposed merger and have available to it a variety of different viewpoints and perspectives.

CREDA is in a unique position to identify and quantify the effects of the merger in several relevant areas. CREDA is comprised of both small and large electric power systems which own or control generating and transmitting resources interconnected with, and affected by, UP&L and PP&L. CREDA is not aware of any other participant fully familiar with its concerns. Moreover, CREDA's constituent members, as well as its consulting engineers, R. W. Beck and Associates, possess the expertise necessary to present these significant issues to the Commission in a meaningful way.

CREDA also hopes to intervene or otherwise participate in proceedings before other state commissions involved in the approval process and before the Federal Energy Regulatory Commission. CREDA will thus be in a position to provide relevant information obtained from said proceedings to this Commission.

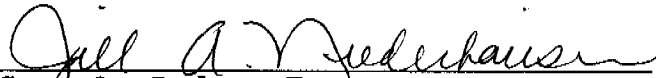
This Commission is charged with the responsibility of regulating utilities to insure that the public interest is properly served. In discharging this responsibility, the Commission should not unduly limit the information it considers. CREDA was the only party to initially express opposition to the merger. By excluding CREDA from this proceeding, the Commission is necessarily limiting the information provided to it for consideration. A decision of the magnitude involved here requires full discussion and presentation of evidence from entities both opposing and favoring the merger. By granting CREDA's Petition, the Commission can better insure that all aspects of the public interest are addressed.

CONCLUSION

For the foregoing reasons, CREDA respectfully requests that this Commission reconsider its prior decision and grant CREDA's Petition to Intervene in this proceeding.

DATED this 19th day of November, 1987.

KIMBALL, PARR, CROCKETT & WADDOUPS



Gary A. Dodge, Esq.

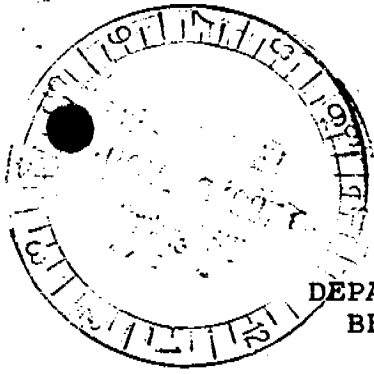
Jill A. Niederhauser, Esq.

DUNCAN, ALLEN AND MITCHELL



John P. Williams, Esq.

Attorneys for Petitioner
Colorado River Energy
Distributors Association, Inc.



109a / 1008

Service Date: November 12, 1987

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF the Montana Public)	UTILITY DIVISION	Ap
Service Commission's Investigation of)		
the Merger of the Pacific Power and)	DOCKET NOS. 87.9.51	
Light Company and the Utah Power and)	87.9.49	
Light Company.)		

NOTICE OF COMMISSION ACTION

PLEASE TAKE NOTICE that on November 9, 1987, the Montana Public Service Commission (Commission) voted to grant in part the request for intervention in this docket of the Colorado River Energy Distributions Authority ("CREDA"). Said intervention is limited to the following issues raised in the CREDA Petition for General Intervention:

1. Potential impacts of the merger on regulation and the efficiencies of the same;
2. Potential impacts of the merger on PP&L's and UP&L's cost of capital and the resultant impacts on the retail rates of the merged utility; and
3. Issues relating to PP&L's representation that the merged utility will maintain separate rates for the UP&L and PP&L divisions.

BY THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman
JOHN B. DRISCOLL, Commissioner
HOWARD L. ELLIS, Commissioner
TOM MONAHAN, Commissioner
DANNY OBERG, Commissioner

EXHIBIT A

MONTANA PUBLIC SERVICE COMMISSION

CERTIFICATE OF SERVICE

* * * * *

I hereby certify that a copy of NOTICE OF COMMISSION ACTION, in DOCKET NOS. 87.9.49 & 87.9.51, in the matter of PACIFICORP AND UTAH POWER & LIGHT CO. MERGER, dated November 9, 1987, has today been served on all parties listed below by mailing a copy thereof to each party by first class mail, postage prepaid.

Date: November 12, 1987

Sandra Adams
For The Commission

INTERVENORS:

Montana Consumer Counsel
Montana Power Company

Dennis Crawford
Public Service Commission
2701 Prospect Avenue
Helena, MT 59620-2601

James C. Paine
Montana Consumer Counsel
34 W. Sixth Avenue
Helena, MT 59620

Montana Power Co.
Attn: Daniel O. Flanagan
40 East Broadway
Butte, MT 59701

Montana Power Co.
Attn: Steve Winter
40 East Broadway
Butte, MT 59701

Nile W. Eatmon
UT Division Public Utilities
427 Heber M. Wells Building
Salt Lake City, UT 84111

Mike Coleman
FERC
825 North Capitol
Washington, DC 20426

Roger Colburn
Oregon Public Utility Comm.
Labor and Industry Building
Salem, OR 97310

Douglas Kirk
Utah Public Service Comm.
Heber M. Wells Building
160 E. 300 So.
Salt Lake City, UT 84111

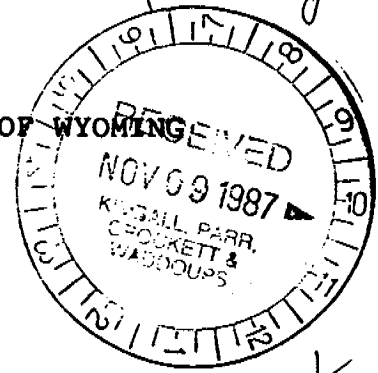
Robert E. Smith
Idaho Public Utilities Comm.
Statehouse Mail
Boise, ID 83712

Fredric D. Reed
Senior Vice President
Pacific Power & Light Co.
920 SW Sixth Avenue
Portland, OR 97204

George M. Galloway
Stoel, Rives, Boley,
Jones & Grey
900 SW Fifth Ave., Ste. 2300
Portland, OR 97204-1268

Merger/Wyo

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING



IN THE MATTER OF THE APPLICATION OF)
PACIFICORP AND PC/UP&L CORP. (TO BE)
RENAMED PACIFICORP) FOR AN ORDER)
AUTHORIZING THE MERGER OF PACIFICORP)
AND UTAH POWER & LIGHT COMPANY INTO)
PC/UP&L MERGING CORP., AND AUTHO-)
RIZING THE ISSUANCE OF SECURITIES,)
ASSUMPTION OF OBLIGATIONS, ADOPTION)
OF TARIFFS AND TRANSFER OF CERTIFI-)
CATES OF PUBLIC CONVENIENCE AND)
NECESSITY AND AUTHORITIES IN CONNEC-)
TION THEREWITH)

DOCKET NO. 9266
SUB 104

IN THE MATTER OF THE APPLICATION OF)
UTAH POWER & LIGHT COMPANY FOR AN)
ORDER AUTHORIZING THE MERGER OF UTAH)
POWER & LIGHT COMPANY AND PACIFICORP)
INTO PC/UP&L MERGING CORP. (TO BE)
RENAMED PACIFICORP), AND AUTHORIZING)
THE ISSUANCE OF SECURITIES, ASSUMP-)
TION OF OBLIGATIONS, ADOPTION OF)
TARIFFS AND TRANSFER OF CERTIFICATES)
OF PUBLIC CONVENIENCE AND NECESSITY)
AND AUTHORITIES IN CONNECTION THERE-)
WITH)

DOCKET NO. 9119
SUB 83

ORDER AUTHORIZING INTERVENTIONS
(Issued November 6, 1987)

1. The Pittsburg & Midway Coal Mining Co., The Colorado River Energy Distributors Association, Inc. ("CREDA"), Idaho Cooperative Utilities Association, Inc., Amoco Production Company, FMC Corporation, Chevron U.S.A. Inc., Exxon Company, U.S.A., a division of Exxon Corporation, The City of Evanston, and The Public Power Council have petitioned to intervene in the subject proceeding and each has demonstrated an interest which is under the jurisdiction of the Commission and within the purview of this case.

2. All parties permitted to intervene, and all other persons presenting statements, will be required to strictly adhere to the

governing Wyoming law including the Wyoming Administrative Procedures Act, and the Commission's Rules, in any appearances, filings, motions, discovery, presentation of evidence, cross-examination and briefs. The Wyoming Supreme Court has uniformly held that the Commission has only that authority granted to it by statute. W.S. 37-1-101, 37-1-102, 37-2-119, 37-2-120, 37-2-122 and 37-2-205 provide that only matters affecting Wyoming intrastate utility rates and service, as specifically defined by Wyoming statutes, can be considered by the Commission in its investigations and rulings. W.S. 16-3-108(a) of the Wyoming Administrative Procedure Act provides, inter alia, that "irrelevant, immaterial or unduly repetitious evidence shall be excluded."

IT IS THEREFORE ORDERED THAT:

1. The Pittsburg & Midway Coal Mining Co., The Colorado River Energy Distributors Association, Inc. ("CREDA"), Idaho Cooperative Utilities Association, Inc., Amoco Production Company, FMC Corporation, Chevron U.S.A. Inc., Exxon Company, U.S.A., a division of Exxon Corporation, The City of Evanston, and The Public Power Council be, and hereby are, allowed to intervene for all purposes in the subject proceeding.

2. This Order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, this 6th day of November, 1987.

BY ORDER OF THE COMMISSION



Alex J. Eliopoulos
ALEX J. ELIOPULOS, Secretary,
PUBLIC SERVICE COMMISSION OF WYOMING
Herschler Building, 122 W. 25th St.
Cheyenne, Wyoming 82002 (SEAL)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Motion for Reconsideration of Creda's Petition to Intervene and Memorandum in Support Thereof" was mailed, postage prepaid (except where otherwise indicated), this 19th day of November, 1987, to the following:

Fredric D. Reed
Senior Vice President
Pacific Power & Light Company
920 Southwest 6th Avenue
Portland, Oregon 97204
(Federal Express)

James Fell, Esq.
Stoel, Rives, Boley, Jones & Grey
Suite 2300
900 Southwest 5th Avenue
Portland, Oregon 97204
(Federal Express)

Charles F. McDevitt, Esq.
Suite 200, Park Place
277 North 6th Street
Boise, Idaho 83702

Sidney G. Baucom
Thomas W. Forsgren
Edward A. Hunter, Jr.
Utah Power & Light Company
1407 West North Temple
Salt Lake City, Utah 84140
(Hand-Delivery)

Wesley F. Merrill
109 North Arthur
Spaulding Building
Pocatello, Idaho 83204

Stephen R. Randle, Esq.
Ungricht, Randle & Deamer
520 Boston Building
Salt Lake City, Utah 84111

Roger Cutler, Esq.
Salt Lake City Attorney
324 South State Street
Salt Lake City, Utah 84111

Robert S. Campbell, Jr., Esq.
George M. Galloway, Esq.
Watkiss & Campbell
310 South Main Street
12th Floor
Salt Lake City, Utah 84111

Michael Ginsberg, Esq.
Attorney General's Office
236 State Capitol Building
Salt Lake City, Utah 84114

Sandy Mooy, Esq.
Attorney General's Office
236 State Capitol Building
Salt Lake City, Utah 84114

James A. Holtkamp, Esq.
Vancott, Bagley, Cornwall & McCarthy
50 South Main Street
Suite 1600
Salt Lake City, Utah 84145

Raymond W. Gee, Esq.
Kirton, McConkie & Bushnell
330 South 300 East
Salt Lake City, Utah 84111

Calvin L. Rampton, Esq.
L. R. Curtis, Esq.
Ronald J. Ockey, Esq.
Jones, Waldo, Holbrook & McDonough
170 South Main Street
Suite 1500
Salt Lake City, Utah 84101

F. Elgin Ward, Esq.
Lynn W. Mitton, Esq.
Deseret Generation & Transmission
Co-operative
8722 South 300 West
Sandy, Utah 84070

Paul T. Morris
Robert Wall
2470 South Redwood Road
West Valley City, Utah 84119

F. Robert Reeder, Esq.
Val R. Antczak, Esq.
Parsons, Behle & Latimer
185 South State Street
P.O. Box 11898
Salt Lake City, Utah 84147

Alice Ritter Burns, Esq.
110 North Main Street
P.O. Box 249
Cedar City, Utah 84720

John Morris, Esq.
LeBoeuf, Lamb, Leiby & MacRae
136 South Main Street
Suite 1000
Salt Lake City, Utah 84101

L. Christian Hauck
Colorado Ute Electric Association
P.O. Box 1149
Montrose, Colorado 81402

Salli Brash, Esq.
Willkie, Farr & Gallagher
#1 CitiCorp Center
153 East 53rd Street
New York, NY 10022

John D. Newman
West Valley City Manager
2470 South Redwood Road
West Valley City, Utah 84119

Chris L. Engstrom, Esq.
Snow, Nuffer, Engstrom & Drake
90 East 200 North
P.O. Box 400
St. George, Utah 84770

Richard W. Giauque, Esq.
Gregory P. Williams, Esq.
Gary F. Bendinger, Esq.
Giauque, Williams, Wilcox & Bendinger
500 Kearns Building
Salt Lake City, Utah 84101

A. Wally Sandack, Esq.
370 East Fifth South

Salt Lake City, Utah 84111

David T. Helsby
R.W. Beck and Associates
2121 Fourth Avenue
Seattle, Washington 98121

