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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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IN THE MATTER OF RATEMAKING)	Docket No. 92-2035-04
TREATMENT OF DEMAND-SIDE)	
RESOURCES AND THE ANALYSIS OF)	COMMENTS ON JOINT AGREEMENT
REGULATORY CHANGES TO)	FOR DEMAND-SIDE RESOURCE
ENCOURAGE IMPLEMENTATION OF)	REGULATORY TREATMENT-1995
INTEGRATED RESOURCE PLANNING)	AND 1996

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The Utah Industrial Energy Consumers submit the following comments on the proposed Joint Agreement for Demand-Side Resource Regulatory Treatment-1995 and 1996 ("Joint Agreement").

The UIEC incorporate and reaffirm the comments they filed on November 17, 1993, regarding the Petition for Approval of the Joint Recommendation for Accounting Treatment that was effective during the year 1994. Those comments apply with equal force to the current Petition for Approval of the Joint Agreement ("Petition").

In addition to the points raised in UIEC's earlier comments, the UIEC believe that the present Petition is premature. The Joint Agreement apparently incorporates some of the conclusions reached by the Cost Recovery Collaborative ("CRC") whose Report is

to be submitted on or before March 31, 1995. That Report, when it issues, will be the product of more than a full year's study of cost accounting methods, including net lost revenue ("NLR") calculations, by a collaborative that the Commission established when it approved a one-year interim Joint Recommendation for 1994. Given the concerns about the NLR formula and other aspects of the 1994 Joint Recommendation, the Commission was willing to adopt the 1994 Recommendation only temporarily pending further study. The present Petition requests that the Commission essentially extend the 1994 order, including the NLR formula, for two more years without the benefit of the Report or comments on the Report.

The Petition suggests that the Joint Agreement is necessary to allow PacifiCorp to continue its DSR efforts "during the period between the expiration of the 1994 Joint Recommendation and Commission action on the March 31, 1995 CRC Report." (Petition at ¶ 4.) If that is the case, then the Commission should extend the 1994 Joint Recommendation or approve the proposed Joint Agreement for temporary implementation until the Commission can act on the Collaborative's Report. There does not appear to be any reason that the Commission should hurry to approve a two-year proposed accounting methodology.

The UIEC also continue to be concerned that an order on DSR accounting treatment will tend to establish presumption that DSR is used and useful, that it is a prudent investment, that there

are net lost revenues associated with DSR, that there are disincentives to the Company to acquire DSR, that if there are disincentives they should be removed, or that the Company ought to be able to recover from ratepayers any DSR costs at all. In their initial comments filed in this docket, the UIEC protested Commission reliance on a collaborative process such as this one in which policy is formulated by regulators, public interest groups, and the utility without the participation of ratepayers. The UIEC protested that their right to due process is abridged when the Commission implements policies and procedures based on collaborative recommendations in the absence of procedural and evidentiary safeguards because such policies and procedures acquire presumptive validity. In the present case, for example, the NLR formula has acquired such a presumption of validity that the Petitioners are urging that it be implemented for another two years before anyone other than the CRC has had an opportunity to review and comment on the Report. The process, in this case, acts as a surrogate for rulemaking and effectively denies ratepayers the protections afforded by statute.

The UIEC are concerned that if the Commission approves another Joint Agreement to extend DSR accounting procedures for another two years, those procedures and the CRC's view of DSR will become further entrenched, will acquire presumptive validity in the eyes of regulators, and will have the effect of improperly shifting

away from the Company and on to the ratepayers the burden of proving that DSR is used and useful or prudent.

The UIEC, therefore, recommend against adopting a 2-year term for the Joint Agreement, and against the issuance of any order approving the Joint Agreement until the Commission and interested parties have had a chance to review and comment on the CRC's report.

Finally, although the UIEC do not formally object to the Joint Agreement, they expressly reserve their right to comment on and/or oppose the CRC's Report, including the calculation of net lost revenues, to challenge any and all elements of the Company's accounting procedures, to oppose cost recovery for DSR, and to raise any other related issue in the appropriate evidentiary proceeding.

DATED this 22nd day of February, 1995.

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CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of February, 1995,
I caused to be mailed, first class, postage prepaid, a true and
correct copy of the foregoing , to:

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