

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of) PacifiCorp and Scottish Power plc for) an Order Approving the Issuance of) PacifiCorp Common Stock)	<u>DOCKET NO. 98-2035-04</u>
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The Utah League of Cities and Towns (hereinafter referred to as “ULCT”) submits the following General Statement of Issues in the above-captioned proceedings.

INTRODUCTION

ULCT is an association of 232 cities and towns in the State of Utah that represents the governmental, financial and political interests of its members. Rather than submit individual petitions, the members of ULCT have directed it to file a consolidated Petition to Intervene in this matter as a matter of administrative efficiency. Nothing in ULCT’s Petition to Intervene should be viewed as precluding individual municipalities from petitioning in their own interests.

The cities and towns of Utah are granted with the power “[t]o furnish all local public services, to purchase, hire, construct, own, maintain and operate, or lease, public utilities local in extent and use...” *Art. XI, Sec. 5, Constitution of Utah; City of Logan v. Utah Power & Light*, 796 P.2d 697 (1990).

Many cities and towns are direct suppliers of electrical generation, distribution and transmission facilities to the constituents of

their municipalities. Others, primarily through the use of franchise agreements, indirectly supply such services through PacifiCorp. Each municipality is dependent upon PacifiCorp to facilitate the supply of low-cost, efficient and reliable electrical power to the municipal residents and businesses. Through the granting of franchises or similar agreements, Utah municipalities have the means to assess the impact of the proposed merger; however, the ULCT believes there is value in working within the authority of the Commission to provide for an orderly review of the merger application and related matters.

Most cities that rely upon PacifiCorp for the direct supply of electrical power impose a franchise fee, energy sales and use tax or a combination thereof. For most municipalities, those fees and taxes are a material revenue resource and are directly effected by the ratemaking and other decisions of this Commission. Those fees and taxes are intended to be paid as consideration for the right to use public property and are currently established upon the tariffs allowed by the Commission and charged by PacifiCorp. That consideration may not represent the fair market value for the right to use public property.

ULCT has concurred in the accelerated schedule established by the parties and approved by the Commission; however, such concurrence was predicated upon the assumption that certain records of the Commission's previous related actions would be available for review and, to the extent practical, adopted by reference. ULCT has

been unable to readily acquire such records.¹ In addition, ULCT has not been party to any discovery to date nor has it had been made aware of the nature of the testimony that will be offered by the applicants in support of such merger.

Accordingly, ULCT submits the following Statement of Issues as a tentative statement and specifically reserves the right to modify or augment such statement as such records and testimony become available.

STANDARD FOR REGULATORY REVIEW

ULCT urges the Commission to adopt and apply the “positive benefit test” to determine the reasonableness of the proposed merger.

STATEMENT OF ISSUES

1. Will the proposed merger result in an increase in reliability?

This would include the merged companies’ commitment to use its best efforts to incorporate technological advances into its equipment and services when such advances have been demonstrated to be technically and economically feasible, safe and beneficial to the customers of the merged company. This would also include the obligation to upgrade the existing system to the extent it has been allowed to deteriorate from an acceptable level of maintenance.

¹ ULCT is primarily interested in those records that pertained to the Commission’s earlier actions related to the application of CP National Corporation and Utah Power & Light Company for the sale and purchase of the public utility electric business of CP National for services in Washington, Iron and Kane Counties, Case nos. 80-023-01 and 80-035-02.

This would also include the promulgation of standards to demonstrate service reliability and customer satisfaction by independent audit.

In addition, this would include an analysis of service reliability, availability and cost; quality of service; and the availability of quality resources within the merged company.

2. Will the merged company recognize a process facilitating municipal self-determination in providing electric distribution to their residents, including corresponding rights and obligations to generation and transmission system?

This would include the promulgation of an equitable valuation methodology that protects the municipality from unreasonable valuation and fairly compensates the company.

3. Will the merged company have local accountability?

This would include commitments from the merged company that there will be high-ranking executive personnel, resident in Utah, who have the necessary resources and authority to provide local responses to local issues. ULCT expresses its perception that since the merger of Utah Power & Light Company and PacifiCorp, such authority has migrated to the State of Oregon and Utah's municipalities have not had adequate access to the appropriate personnel.

4. Will the merged company be able to demonstrate that it is financially stable so that it will be capable of providing appropriate

return to its stockholders without prejudice to the customers and municipalities in Utah?

The analysis would demonstrate that the merger would not adversely effect the ability to attract and maintain commercial and industrial business into the corporate limits of Utah's municipalities.

In addition, the analysis should demonstrate that the merger would not adversely effect employment, housing or resource development within the various municipalities.

5. Will the merged company pursue an aggressive program of improving the location and aesthetics of its existing facilities and cooperate in the removal of barriers to sound planned development?

This would include an analysis of the costs associated with undergrounding and improving the aesthetics of substations and other facilities.

6. Will the merger hearings provide adequate opportunity to address infrastructure development and regulatory reform?

This will include the review of rate restructuring that provides incentives and assurances that future infrastructure needs will be given a priority in company capital investment as well as operation and maintenance programs.

This will also include review of opportunities for streamlining the administrative process to enhance the regulatory benefits to the company and its customers, expedite review and responses to applications and lower the economic barrier to regulatory review.

DATED this __ day of February 1999.

UTAH LEAGUE OF CITIES AND
TOWNS

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