

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF UTAH**

IN THE MATTER OF THE APPLICATION)
OF PACIFICORP AND SCOTTISH POWER)
PLC FOR AN ORDER APPROVING) DOCKET NO. 98-2035-004
ISSUANCE OF PACIFICORP COMMON)
STOCK

DIRECT TESTIMONY OF JEFFFREY S. BURKS

**On Behalf of
THE UTAH OFFICE OF ENERGY AND RESOURCE PLANNING,
UTAH DEPARTMENT OF NATURAL RESOURCES**

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Q: Please state your name and address.

A: My name is Jeff Burks, and my business address is Office of Energy and Resource Planning, 1594 West North Temple, Suite 3610, PO Box 146480, Salt Lake City, Utah 84114-6480.

Q: Who is your employer and in what capacity do you serve?

A: I am employed by the Utah Department of Natural Resources. I am Director of the Office of Energy and Resource Planning (OERP).

Q: Please state your educational background and work experience.

A: I attended undergraduate programs at the University of Wisconsin at Madison and the University of Utah. In 1978 I graduated from the University of Utah with a B. Sc. degree in Economics. I have been involved with energy policy issues since 1979 when I began my state employment with the Governor's Energy Office. For the last seventeen years I have been employed by the Utah Department of Natural Resources. I have been in my current

1 position since June, 1994.

2
3 **Q: What is your previous involvement in proceedings before this Commission?**

4 A: In 1996 I filed comments in the Commission's Notice of Inquiry (Docket No. 96-999-01)
5 into *Changes in the Structure of the Electric Utility Industry and Appropriate State*
6 *Regulatory Response*. I also participated as a member of the System Benefits
7 Subcommittee that was part of that inquiry. In 1998, I filed rebuttal testimony in Docket
8 97-035-01 on the issues surrounding renewable energy and energy efficiency. In that
9 docket, the Commission ordered formation of renewable energy and energy efficiency task
10 force. I am one of the co-chairs of that task force.

11
12 I have been a member of the public advisory committee this Commission established to
13 participate in PacifiCorp's Resource and Marketing Planning Program (RAMPP).

14
15 **Q: Please state your experience in developing energy efficiency and renewable energy**
16 **programs and policies.**

17 A: The Office of Energy and Resource Planning has been involved in a number of market
18 transformation activities to promote the creation of markets for energy efficiency and
19 renewable energy. We are the sponsor of a renewable energy and energy efficiency
20 program for national parks in Utah. The program has received two national awards for its
21 innovative approach and success in increasing the use of cost-effective energy efficiency
22 and renewable energy technologies in the national park system. We also support a similar
23 program for Utah's state parks.

24
25 The Office of Energy and Resource Planning has also developed programs to increase
26 energy efficiency in new and existing state buildings. In 1997 we developed a pilot
27 program, in cooperation with DFCM and PacifiCorp, to provide fee incentives to encourage
28 architects and design teams working on new state buildings to incorporate energy efficiency

1 as a programming goal in the design of state facilities. This program involved 7 buildings
2 and participating design teams increased the energy efficiency of these buildings by 42% on
3 average above existing DFCM standards.

4
5 In July 1998, I was appointed co-chair of the Western Regional Air Partnership's (WRAP)
6 Air Pollution Prevention Forum. The WRAP, consisting of 12 Western Governors, tribal
7 leaders, federal agencies and private industry, created the Air Pollution Prevention Forum
8 to develop and implement renewable energy and energy efficiency policies to achieve goals
9 established by the Grand Canyon Visibility Transport Commission.

10
11 **Q: What is the purpose of OERP's testimony in this docket?**

12 A: OERP's testimony addresses ScottishPower's commitment to "public purpose" investments
13 and provides recommendations to the Commission on how a program might be structured
14 to ensure these investments provide "net" benefits to Utahns.

15
16 **Q: Why are considerations of "public purpose" programs important to this docket?**

17 A: The issue before the Commission is to determine whether the proposed merger is in the
18 "public interest". The extent to which the merger will improve the chances that Utahns
19 will gain more access and directly benefit from ScottishPower's stated commitments to
20 increase investments in "public purposes" including low-income, renewable energy, and
21 the environmental programs, is an important consideration in the Commission's
22 deliberations of whether the merger is in the "public interest".

23
24 **Q: Would you please summarize some of the commitments to "public purpose" programs
25 ScottishPower has made as part of its application.**

26 A: Yes. In witness Richardson's direct testimony (*ScottishPower, Richardson, pp. 11-14*) he
27 outlines ScottishPower's view towards its corporate responsibility concerning its
28 commitment to communities, and the environment. Mr. Richardson's testimony states that

1 if the merger is approved ScottishPower will:

- 2 ● Double, to more than \$3 million, funds to support programs like low-income
- 3 energy assistance and education on energy efficiency;
- 4 ● Contribute \$5 million to the PacifiCorp Foundation;
- 5 ● Contribute \$100,000 to the Bonneville Environmental Foundation;
- 6 ● Within five years after the approval of the merger, invest \$60 million to develop
- 7 an additional 50 MW of renewable energy such as wind, solar, and/or geothermal;
- 8 ● Establish an Environmental Forum; and
- 9 ● Incorporate ScottishPower's environmental principals into PacifiCorp's
- 10 operations. These principles can be found attached to Witness Richardson's
- 11 testimony, *Scottish Power, Richardson, p. 47 Ex. SP (AVR-3)*.
- 12

13 **Q: What other environmental commitments has ScottishPower made that you consider to**
14 **be in the public interest?**

15 According to witness Richardson's direct testimony, (*ScottishPower, Richardson, p.14*)
16 within 60 days after closing of the merger transaction, ScottishPower will file an
17 application in Utah for a "green resource" tariff.

18
19 **Q: What is your opinion of ScottishPower's commitment to "public purpose" and**
20 **renewable energy programs?**

21 A: It is my opinion Scottish Power has made important and credible commitments to
22 customers system-wide on matters related to environmental stewardship, renewable energy,
23 low-income, and community-based programs.

24
25 **Q: Does OERP have any concerns about Scottish Power's commitments to public**
26 **purpose programs?**

27 A: Yes. While OERP believes ScottishPower's filing demonstrates their commitment to
28 increasing investments in "public purpose" programs there are gaps in the filing. Absent

1 from ScottishPower’s filing is a commitment to continue to maintain or enhance
2 investments in energy efficiency programs. While witness Richardson testimony states
3 ScottishPower invests “...approximately \$5.1 million per year in energy-efficiency”
4 improvements in the U.K., the record lacks any reference to ScottishPower’s commitment
5 to support energy efficiency programs. Investments in energy efficiency is a “public
6 purpose” program OERP views as an important consideration of the Commission’s
7 determination of whether the merger is in the public interest.

8
9 The record is also incomplete on how ScottishPower’s system-wide investments in “public
10 purposes” will be made in a way that provide net benefits to Utahns. For example, there are
11 no assurances any money will be spent on renewable energy projects in Utah. To illustrate
12 this point, consider the \$60 million that ScottishPower is willing to make in renewable
13 energy. It is not clear how or where the money will be spent. If all the money goes to a
14 wind farm in Oregon or Washington, there may be little direct benefit to Utah. It might
15 make more sense for Utah’s customers if ScottishPower were to invest in remote
16 applications of renewable technologies applied to the rural part of PacifiCorp’s Utah
17 system, not only getting the benefits of the renewable energy to Utah, but also reducing the
18 costs in Utah by eliminating unnecessary expenditures on PacifiCorp’s distribution system.

19
20 **Q: Are there other issues that Scottish Power’s proposed “public purposes” expenditures**
21 **raise?**

22 A: Yes. As OERP raised in testimony in Docket 97-035-01, the question is how does the
23 Commission begin to develop a framework that will enable low-income, energy efficiency,
24 renewable energy, consumer education and other public purpose activities to evolve in a
25 world of retail choice and competition. The ground rules the Commission establishes in
26 this Docket for “public purpose” expenditures under current regulation will go a long way
27 in determining whether these programs and services are sustainable in a competitive
28 environment.

1 **Q: What recommendations does OERP have that would address the concerns raised in**
2 **your testimony?**

3 A: OERP recommends that the Commission consider requiring Scottish Power to establish a
4 public purposes fund for the state of Utah as a condition of merger approval.

5
6 **Q: How would the fund be created and managed?**

7 A: There are any number of ways this fund could be created and made accountable for
8 programs and expenditures that provide net benefits to Utahns. Possible approaches could
9 include a new non-profit organization, an existing non-profit organization, a state or local
10 government entity, or the Commission could establish and administer the fund itself. The
11 Commission could even allow Scottish Power to administer the fund if a way could be
12 found to make such an arrangement responsive and accountable to Utah stakeholders. The
13 major element being that expenditures from the fund should directly benefit Utah.

14
15 **Q: Could this “public purposes” fund make the same expenditures as ScottishPower is**
16 **proposing in its application?**

17 A: Yes. More importantly is that this fund would look at the needs and best uses of these
18 monies in Utah and be able to direct them where they make the most sense for Utah
19 customers. Having this fund would also ensure that these public purposes expenditures
20 would stay and be used in Utah.

21
22 **Q: Please provide an example of the opportunities and benefits creating a Utah “public**
23 **purpose fund” would provide to Utah?**

24 A: The State of Utah and PacifiCorp are both critical players in addressing the air quality
25 issues in the Colorado Plateau. The Governor of the State of Utah is co-chair of the
26 Western Region Air Partnership (WRAP) that is charged with implementing the
27 recommendations of the Grand Canyon Visibility Transport Commission.

28 Based on recommendations from the Grand Canyon Visibility Transport Commission

1 (GCVTC), EPA has adopted a regional haze rule that the State of Utah will be required to
2 comply with. In that rule, Utah will have to identify its efforts to preserve and expand
3 energy efficiency, identify areas for renewable technologies, and develop programs to meet
4 WRAP's goals of having renewable energy comprise 10 percent of regional power needs by
5 2005, and 20 percent by 2015. Renewable and energy efficiency programs are going to have
6 to be developed in Utah to comply with the state implementation plan requirements of the
7 regional haze rule. Expenditures from a Utah "public purpose" fund could be used to
8 implement these energy efficiency and renewable energy provisions of the implementation
9 plan.

10
11 **Q: How would the Commission determine how much money to put into the fund?**

12 A: OERP's proposal has no costs associated with it other than those proposed by Scottish
13 Power in its application. OERP's proposal would be to take Scottish Power's proposed
14 expenditures for public purposes for the next 5 years and add to them what PacifiCorp's
15 1998 expenditures for public purposes, multiplied by the same 5 years. This would give a
16 system-wide value for public purpose expenditures for the next 5 years. The Commission
17 could take approximately 1/3 of this total amount and allocate it to the Utah Public
18 Purposes Fund, since Utah is approximately 1/3 of the load on PacifiCorp's system. This is
19 an example to illustrate how OERP would recommend the Commission might make the
20 calculation. The final figures would be based on PacifiCorp's current public purpose
21 expenditures. Using this method would allow the creation of a Utah Public Purposes Fund
22 with no new additional costs to ScottishPower over its initial proposal. The fund can then
23 be used to directly benefit Utah. OERP would recommend a review and possible sunset or
24 modification to the amount to reflect conditions after 7 years.

25
26 **Q: What are the benefits of OERP's proposal to establish a Utah "public purposes"
27 fund?**

28 A: There are several benefits of OERP's proposal. The Utah public purpose fund:

- 1 ● Is consistent ScottishPower’s proposal for public purpose expenditures filed in
2 their application;
- 3 ● Supports PacifiCorp’s continued investments in energy efficiency, renewable
4 energy, and programs for low-income consumers;
- 5 ● Ensures that public purposes expenditures benefit Utahn’s;
- 6 ● Allows Utah to direct the public purposes expenditures to maximize the benefits
7 to Utahn;
- 8 ● Increases the effectiveness of the delivery of energy efficiency and renewable
9 energy program offerings;
- 10 ● Provides a funding mechanism for implementing recommendations from the
11 Commission’s low-income, and energy efficiency and renewable energy resource
12 task forces created in Docket 97-035-01; and
- 13 ● Is forward looking in that it provides for “public purposes” expenditures in a
14 regulated electric industry environment as well as affording Utah with a
15 mechanism for preserving these expenditures should the Utah legislature decide to
16 restructure the industry and offer retail choice to Utah electricity customers.

17

18 **Q: Does this conclude your testimony?**

19 **A: Yes it does.**

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