

**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.

Docket No. 98-2035-04

**BRIEF OF EMERY COUNTY**

**INTRODUCTION**

Emery County appears in this proceeding in its capacity for the county as a taxing entity, and for other public taxing entities which may levy property tax rates against property located within Emery County. Findings and rulings of the Public Service Commission of Utah can influence findings of other agencies; specifically, the concern of Emery County is that findings of the Public Service Commission of Utah could influence future tax appraisal rulings involving PacifiCorp, which are the responsibility of the Utah State Tax Commission.

**THE PUBLIC SERVICE COMMISSION OF UTAH  
SHOULD DEFER TO THE UTAH STATE TAX COMMISSION  
ALL RULINGS OR FINDINGS RELATED TO THE PROPOSED  
MERGER THAT CONCERN THE FUTURE VALUATION  
AND ASSESSMENT OF PACIFICORP PROPERTY**

**A. The Utah State Tax Commission has Exclusive Jurisdiction on Property Tax Valuation Matters.**

Emery County requests that the Commission enter a specific finding in any order approving the issuance of PacifiCorp Common Stock, which facilitates the merger of PacifiCorp and Scottish Power, defining the issue of property valuation and associated property taxes as an issue for consideration exclusively by the Utah State Tax Commission under the provisions of § 59-2-201 Utah Code Annotated 1953, (as amended 1997). The Utah State Tax Commission has constitutional and statutory jurisdiction over all questions of property valuation which are a significant component of the property tax paid by PacifiCorp and other public utilities. Any conclusion by the Commission of a finding or ruling limiting the post merger valuation of PacifiCorp would be a direct conflict with the statutory role of the Utah State Tax Commission.

**B. Lawfully Assessed Property Taxes are a Legitimate Operating Expense With or Without the Proposed Merger.**

The Utah State Tax Commission will follow the law and constitution of the state of Utah in assessing the value of PacifiCorp, and the final result will be the lawfully imposed assessment which will be used by Emery County to levy property taxes. Property taxes paid by PacifiCorp will be actual expenses of an involuntary nature and are not ordinarily considered to be a financial or regulatory benefit to the utility. Apparently, certain members of the Division of Public Utilities staff are concerned that the potential valuation of PacifiCorp assets by Scottish Power may increase operating expenses by

increasing the valuation of PacifiCorp assets by the Utah State Tax Commission. The characterization of re-valuation as a merger related cost, apparently, derives from certain potential changes proposed by Scottish Power which may, or could be, implemented by PacifiCorp with or without the merger. Any changes in valuation by the utility, regardless of the merger, will be taken into consideration by the Utah State Tax Commission in the normal and ordinary course of its work.

**C. Changing Valuation Methods Make Prediction of Tax Valuation Results Complicated and Uncertain.**

The Commission should consider the testimony of J. Robert Malko on behalf of Emery County, and should adopt a finding that all valuation matters be deferred to the Utah State Tax Commission because it is practically impossible to accurately isolate and predict specific impacts of the merger on the property valuation and taxes of PacifiCorp mainly because of changing financial factors and complex valuation methodology changes occurring under the rules of the Utah State Tax Commission. Any attempt by the Public Service Commission to contain or influence valuation by the Utah State Tax Commission may produce unanticipated results and certainly would transgress the jurisdiction of the Tax Commission to make the assessments required by Utah law.

**CONCLUSION**

The Commission should adopt a specific ruling deferring any findings or rulings related to valuation and tax assessment issues of PacifiCorp to the jurisdiction of the Utah State Tax Commission regardless of the proposed merger.

DATED this \_\_\_\_ day of September, 1999.

PARSONS DAVIES KINGHORN & PETERS

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Gerald H. Kinghorn  
Special Counsel for Emery County

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the BRIEF OF EMERY COUNTY was mailed by regular U.S. Mail this 3rd day of September, 1999, to the following parties:

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