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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of PACIFICORP for Approval of Its Proposed Electric Rate Service Schedules & Electric Service Regulations	DOCKET NO. 01-035-01
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MOTION TO STRIKE REBUTTAL TESTIMONY OF KAREN CLARK

Pursuant to R746-100-3(H) of the Rules of Utah Public Service Commission (“Commission”), the Utah Industrial Energy Consumers (“UIEC”) hereby move to strike the Rebuttal Testimony of Karen Clark filed by PacifiCorp (“Company”) on July 16, 2001. The basis for this motion is as follows:

1. On July 16, 2001, PacifiCorp filed the Rebuttal Testimony of Karen Clark. While Ms. Clark’s testimony purports to respond to certain intervenor’s testimony regarding power cost adjustments, it is, for the most part, testimony predicting the impact on the Company’s bond ratings if the Commission does not grant the Company’s requested increase. Thus, the testimony, although captioned as “Rebuttal Testimony” is direct in nature.

2. Ms. Clark's testimony could have and should have been filed as direct testimony. Ms. Clark submitted virtually the same testimony in this docket during hearings on the interim increase (see Transcript of Proceedings, January 30, 2001 at p. 194). On information and belief, Ms. Clark also filed similar testimony in PacifiCorp's rate case in Oregon prior to hearings in that case which were held on May 29 through 31, 2001. (Oregon PUC, Docket No. UE116). There is no reason, therefore, that Ms. Clark's testimony could not have been filed as direct testimony in the present docket.

3. Because Ms. Clark's testimony was filed on July 16, 2001, as if it were rebuttal testimony, the parties have not had an opportunity to conduct discovery. At this stage of the case, discovery turnaround is 14 days. Thus, even for data requests served upon the Company on the day Ms. Clark's testimony was filed, responses are not due until July 30, 2001, the day the hearings begin.

4. The UIEC served its Tenth Set of Data Requests regarding Ms. Clark's testimony on PacifiCorp on July 18, 2001. PacifiCorp has informed the UIEC that it will be unable to respond to those data requests before the hearings commence. Under the Scheduling Order, PacifiCorp's responses would be due August 1, 2001, the day *after* Ms. Clark is scheduled to appear.

5. The Division of Public Utilities ("DPU") also has served data requests on PacifiCorp regarding Ms. Clark's testimony. (DPU's Twenty-Sixth Data Requests, July 16, 2001; DPU's Twenty-Seventh Data Requests, July 17, 2001). The UIEC has requested but has not yet received the Company's response to these data requests. Even if the UIEC were to receive these responses today, which it has not, the UIEC's requests cover certain aspects of Ms.

Clark's testimony that were not covered in the DPU's requests. For that reason, responses to the DPU's data requests will not suffice as responses to the UIEC's requests.

6. The UIEC is substantially prejudiced by PacifiCorp's last minute filing of Ms. Clark's testimony, and by its refusal to timely provide responses to data requests. For that reason, the testimony and exhibits of Karen Clark should be stricken from the record in this docket.

DATED this _____ day of July, 2001.

F. ROBERT REEDER
WILLIAM J. EVANS
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of July, 2001, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing **MOTION TO STRIKE REBUTTAL**

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