

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of

PACIFICORP AND SCOTTISH POWER PLC

For an Order (1) Disclaiming Jurisdiction or, in the Alternative, Authorizing the Acquisition of Control of PacifiCorp by Scottish Power and (2) Affirming Compliance with RCW 80.08.040 for PacifiCorp's Issuance of Stock in Connection with the Transaction

Docket No. UE-981627

STIPULATION

BACKGROUND

On December 31, 1998, PacifiCorp and Scottish Power filed an Application with the Commission requesting an Order (1) Disclaiming Jurisdiction or, in the Alternative, Authorizing the Acquisition of Control of PacifiCorp by Scottish Power and (2) Affirming Compliance with RCW 80.08.040 for PacifiCorp's Issuance of Stock in Connection with the Transaction. Prehearing conferences were convened on February 8, and March 18, 1999, and Joint Applicants submitted their direct testimony on April 23, 1999.

PacifiCorp and Scottish Power entered into a Stipulation with Staff of the Washington Utilities and Transportation Commission ("Staff") on June 10, 1999 resolving the issues between PacifiCorp/Scottish Power and Staff. The Stipulation with Staff was included as Exhibit __ (DEK-1) in Staff's testimony filed in this proceeding. Following the completion of evidentiary hearings in other states, PacifiCorp and ScottishPower met with Staff and discussed possible modifications to the June 10 Stipulation to include commitments, as appropriate, extended by Joint Applicants in other states. These parties determined that it would be appropriate to amend the June 10 Stipulation to include several additional provisions.

PacifiCorp and ScottishPower have also engaged in a number of discussions with the Public Counsel Section, Office of the Attorney General ("Public Counsel") to discuss the proposed transaction and resolve outstanding issues. These parties were able to agree upon terms that resolve the issues between PacifiCorp/ScottishPower and Public Counsel.

This Stipulation represents the combined terms and conditions agreed upon by PacifiCorp, ScottishPower, Staff and Public Counsel (the "Parties"), and constitutes the resolution of issues among the Parties. This Stipulation supersedes the June 10 Stipulation between PacifiCorp/ScottishPower and Staff.

TERMS OF STIPULATION

The terms and conditions of this Stipulation are set forth below. The Parties recommend that the Commission approve the Application in this docket, subject to the conditions of this Stipulation.

1. PacifiCorp/Scottish Power agree to all commitments and conditions as included in their application in Docket No. UE-981627 and the accompanying testimony and exhibits, except as modified in this Stipulation.
2. The capital requirements of PacifiCorp, as determined to be necessary to meet its obligation to serve the public, shall be given a high priority by the Board of Directors of the parent holding company and the utility.
3. In each rate proceeding filed with the Commission, PacifiCorp/Scottish Power shall have the burden to show that any resource additions, including renewable resources, which are included in the rate base or the revenue requirement for the first time in that rate proceeding are reasonable and prudent investments.
4. Commencing January 1, 2001, PacifiCorp/ScottishPower shall provide guaranteed merger-related cost-of-service reductions for four years through an annual merger credit. The amount of the credit shall be \$3 million per year for years 2001, 2002, 2003 and 2004. The total credit in years 2001-2004 will be \$12 million. The commitment to achieve \$10 million in annual corporate cost savings across the PacifiCorp system set forth as item II.B.1. in Exhibit AVR-7 is included within, and is superseded by, this merger credit. PacifiCorp/ScottishPower may reduce or offset the \$3 million merger credit to the extent that cost reductions related to the merger are reflected in rates. The merger credit shall be allocated among PacifiCorp's retail tariff customers (excluding customers served under special contracts) on the basis of a uniform percentage of the customer bill, exclusive of taxes. At the end of each year, the aggregate amount of credit paid in that year shall be calculated. These calculations shall be audited by Staff, which shall report its audit results to the Commission. Public Counsel shall be advised of and, at its sole discretion, may participate in the audit. Audit results shall be reported to Public Counsel. In the event the merger credit does not equal \$3 million in any of the first three years, the excess or shortfall shall be applied to the \$3 million due in the following year. In the event that PacifiCorp's customers are offered retail direct access prior to the end of the four years for payment of the merger credit, the Commission shall determine at that time how the outstanding merger credit shall be paid. Any other items required to implement this merger credit shall be included in the merger credit tariff for approval by the Commission, filed no later than December 1, 2000.
5. PacifiCorp will fund network expenditures required to implement the service standards commitments in Scottish Power's direct testimony from efficiency savings and redirected internal funding and will report funding sources and expenditures

against the \$55 million estimate.

6. All transaction costs associated with this merger and the premium paid by Scottish Power for PacifiCorp will be excluded from all future ratemaking treatment in Washington.

7. If ScottishPower is able to lower the costs of capital, then those savings shall be reflected in rates in accordance with regulatory practices in the State of Washington. If, however, the cost of capital of electric operations of PacifiCorp increases as a direct result of the merger, ScottishPower's shareholders will bear that cost.

8. Unless otherwise approved by the Commission, a hypothetical capital structure will be used by the Parties to determine the correct costs of capital for ratemaking purposes in Washington. The capital structure shall be constructed using a group of electric utilities comparable to PacifiCorp.

9. No later than six months after the closing date of the merger, PacifiCorp/Scottish Power shall file with the Commission and provide to Staff and Public Counsel the merger transition plan including anticipated time lines, actions anticipated necessary to implement the merger and the proposed benefits, the estimated associated capital and expense expenditures and anticipated workforce changes. PacifiCorp/Scottish Power will file any written modifications to the transition plan that occur within five years after the merger closing date. PacifiCorp/ScottishPower will not dispute the use of figures from the transition plan (as modified) as a basis for pro forma adjustments by Staff or Public Counsel, in accordance with ratemaking practices in Washington, for known and measurable cost savings in the rate year.

10. PacifiCorp/ScottishPower, Staff and Public Counsel will work together to establish the baselines related to the network performance standards. If the parties fail to agree on the appropriate baselines within thirty (30) days after the Commission's final order in this proceeding, PacifiCorp/ScottishPower shall no later than forty-five (45) days after such order submit a filing to the Commission setting forth their proposed baselines. Staff, Public Counsel and other interested parties will be given an opportunity to comment on such filings. PacifiCorp/ScottishPower agree to abide by the Commission's decision regarding the appropriate baselines.

11. In addition to their network and customer service performance standards, PacifiCorp/ScottishPower agree to comply with any service standards adopted by the Commission. PacifiCorp/ScottishPower will not oppose adoption in Docket No. UE-990473 of minimum customer service and service quality provisions which address elements within the package of service quality proposals offered by Joint Applicants in this merger and which do not conflict with those proposals; provided, however, that PacifiCorp/ScottishPower reserve the right to comment on any proposed condition in such Docket. Staff and Public Counsel acknowledge that the penalties associated with

the PacifiCorp/ScottishPower network and customer service performance standards adopted as a result of this merger proceeding will not apply to any service standards adopted by the Commission. The provisions of this paragraph will not: (a) affect any penalties adopted or assessed by the Commission as part of any rules, or (b) limit Staff's or Public Counsel's ability to advocate for service quality and customer service provisions and penalties in other proceedings.

12. PacifiCorp/ScottishPower agree that in resolving complaints referred to the company by the Commission, the applicable Commission rule, currently WAC 480-100-096(5), will govern the company's actions with respect to the time within which an initial response will be provided to the Commission.

13. The Parties agree that the number of complaints received by the Commission from PacifiCorp customers should be reduced as a result of implementation of the service quality improvements proposed by PacifiCorp/ScottishPower in this proceeding. The level of such complaints shall be reviewed by the Parties two years following completion of the transaction. If a reduction in the number of such complaints is not achieved, PacifiCorp/ScottishPower will file a report with the Commission as soon as practicable following such review detailing the areas of concern most often raised by customers and proposing an action plan for addressing these concerns in the future.

14. As soon as practicable following completion of the transaction, the Parties will work together to develop an effective education program for the company's customers regarding the customer service guarantees. The purpose of such a program will be to educate customers about their rights under such customer service guarantees and the steps required to claim any payment due to customers based on lack of performance on the part of the company. PacifiCorp/ScottishPower will notify customers annually of the customer service guarantees and how to effect any credits due them. Such notification may be included as part of the company's annual report to customers regarding its record with respect to performance standards and customer guarantees.

15. As part of the implementation of the customer service guarantees, PacifiCorp/ScottishPower will empower its business office staff to process calls from customers seeking to make claims under the guarantee regarding restoration of power supply within 24 hours.

16. PacifiCorp/ScottishPower agree that during the 15-day working period in which the company has committed to investigate and report back to customers on billing or metering problems, it will not take action with respect to such customers' accounts by initiating collection remedies or disconnecting customers' power supply.

17. PacifiCorp/ScottishPower agree to implement Prosper, an automated reporting system, within 12 to 18 months after closing of the merger. PacifiCorp will operate its current outage reporting system until Prosper is implemented.

18. PacifiCorp/Scottish Power will make semi-annual reports to the Commission, Staff and Public Counsel regarding its performance in Washington against the network performance benchmarks set forth in ScottishPower's testimony and modified in this stipulation. With respect to customer service performance and customer guarantees, such reports shall be provided quarterly. Such reports shall commence upon the conclusion of the first full semi-annual period after closing of the merger, and shall continue until the conclusion of the fifth year after closing of the merger. These reports will include PacifiCorp's performance against each benchmark over a quarterly (and once available, annual) time frame. PacifiCorp will also include the number and amount of customer payments claimed and granted under each of the benchmarks. Information used to prepare the reports shall be available upon reasonable request of Staff or Public Counsel. Three years after closing of the merger, the Parties shall evaluate the frequency of this reporting requirement, and may agree to modify the frequency of the reports with the approval of the Commission.

19. The network performance standards, customer service performance standards, and customer guarantees will be reviewed after two years of experience in Washington to see if any modifications need to be made to better maintain or improve network reliability, network safety, and customer service and satisfaction. In this regard, no later than July 1, 2002, PacifiCorp/Scottish Power will file with the Commission and all intervenors in this Docket a report detailing the companies' experience with the established standards (including any customer satisfaction information, company performance of the established standards, an analysis of the factors used to calculate the CPI, any proposed changes to the standards, and the reasons for such proposed changes). Staff, Public Counsel and intervenors shall be given an opportunity to comment on such report. Pending any changes resulting from this report, the existing service standards and customer guarantees would remain in place in Washington.

20. The following shall apply with respect to the network performance standard regarding the five worst performing circuits:

(a) ScottishPower will select annually, for five years following closure of the merger, the five worst performing circuits in Washington on the basis of the Circuit Performance Indicator (CPI). Corrective measures will be taken within 2 years of nomination to reduce the CPI on each selected circuit by 20%.

(b) In implementing the network performance standard regarding five worst performing circuits within Washington, any circuit selected in any one year as a worst performing circuit shall not be reselected during the five (5) year period.

(c) For each year the selection of five worst performing circuits will use the CPI data from the most recent full three-year period.

(d) To meet the CPI standard, PacifiCorp must achieve at least a 20% improvement in the CPI for the five worst feeders selected.

(e) If PacifiCorp is unable to obtain the appropriate planning consents to improve a selected circuit PacifiCorp will select another circuit, consistent with improving service to worst served customers.

21. If PacifiCorp's network performance falls below baseline levels (as determined in condition 10 above) in Washington, PacifiCorp/Scottish Power will present a report as soon as practicable to the Commission explaining the deterioration in performance and will commit to an accelerated action plan (including required financial expenditures) to cure the deterioration in performance. In such an event, PacifiCorp/Scottish Power will carry the burden of demonstrating the prudence of their management of the system and the associated recoverability of their expenditures.

22. Any penalties paid by the companies as a result of failure to meet their proposed service standards in Washington, excluding penalties paid directly to customers, shall be paid directly to a designated organization to benefit energy customers of PacifiCorp in Washington. Upon the assessment of any penalties, PacifiCorp/Scottish Power shall consult with Staff and Public Counsel to identify an appropriate organization, with an objective of maximizing the number of customers that will benefit. PacifiCorp/ScottishPower shall file with the Commission a proposal recommending a particular organization, and Staff, Public Counsel, and other parties shall be provided an opportunity to comment on such recommendation. PacifiCorp/Scottish Power agree to be bound by the Commission's decision regarding the designated organization.

23. Until approved by the Commission in a separate proceeding upon the filing of an application, PacifiCorp shall maintain separate debt and, if outstanding, preferred stock ratings.

24. On June 18, 1999, PacifiCorp/ScottishPower filed with the Commission and other jurisdictional state rate regulators a proposed methodology for the allocation of corporate and affiliate investments, expenses, and overheads and a statement of where each of the ScottishPower principal corporate departments will sit in the corporate structure. This document constitutes a draft of what is to be filed regarding cost allocations with the Securities and Exchange Commission. No later than October 15, 1999, PacifiCorp/ScottishPower shall provide Commission Staff with a comparison of such proposed methodology with the methodology currently being applied by PacifiCorp with respect to allocation of corporate overheads. No later than October 15, 1999, PacifiCorp/ScottishPower shall schedule a conference/meeting with state and other interested regulators to discuss the proposed corporate and affiliate cost allocation methodology.

25. Within 30 days of receiving all necessary state, federal, and foreign

regulatory approvals of the final corporate and affiliate cost allocation methodology, a written document setting forth the final corporate and affiliate cost methodology shall be submitted to the Commission. On an on-going basis, the Commission shall also be notified of anticipated or mandated changes to the corporate and affiliate cost allocation methodologies. Public Counsel reserves the right to contest the corporate and affiliate cost allocation methodologies in future rate proceedings. Staff also reserves the right to contest such methodologies in future rate proceedings except to the extent that it has agreed to any such methodologies with PacifiCorp/ScottishPower in connection with Condition 24.

26. PacifiCorp and Scottish Power shall advocate before the Securities and Exchange Commission, shareholders, and other jurisdictions, a corporate structure that contains a holding company as a parent and does not include a new separate entity to provide corporate services, as proposed in the Amended and Restated Merger Agreement. If a change in the proposed corporate structure as reflected in the Amended and Restated Merger Agreement, including the current PacifiCorp corporate structure, (i) is mandated in merger-related proceedings by a jurisdictional regulatory body other than Washington or shareholders or (ii) becomes advisable in the future, PacifiCorp/Scottish Power shall so advise Staff and Public Counsel in writing, within 30 days, along with the perceived or anticipated associated changes to allocations or other matters that may be required by the changed corporate structure.

27. Any diversified holding and investments (e.g., non-utility business or foreign utilities) of Scottish Power and PacifiCorp following approval of the merger shall be held in separate company(ies) other than PacifiCorp, the entity for utility operations. Ring fence provisions (i.e., measures providing for separate financial and accounting treatment) shall be provided for each of these diversified activities, including but not limited to provisions protecting the regulated utility from the liabilities or financial distress of ScottishPower. This condition shall not prohibit the holding of diversified businesses and investments by affiliates of PacifiCorp, such as PacifiCorp Group Holdings Company.

28. PacifiCorp shall not, without the approval of the Commission, assume any obligation or liability as guarantor, endorser, surety or otherwise for ScottishPower or its affiliates provided that this condition shall not prevent PacifiCorp from assuming any obligation or liability on behalf of a subsidiary of PacifiCorp. ScottishPower shall not pledge any of the assets of the regulated business of PacifiCorp as backing for any securities which ScottishPower or its affiliates (but excluding PacifiCorp and its subsidiaries) may issue.

29. The existing loan agreement between PacifiCorp and its affiliates will continue to govern loans between PacifiCorp and its affiliates.

30. Scottish Power/PacifiCorp shall notify the Commission subsequent to

Scottish Power's board approval and as soon as practicable following: (a) any public announcement of any acquisitions of a regulated or unregulated business representing 5% or more of the market capitalization of ScottishPower or entering into a new business venture or expansion of an existing one, or (b) the change in effective control or acquisition of any material part or all of PacifiCorp by any other firm, whether by merger, combination, stock or asset transfer. Nothing in this Stipulation shall relieve PacifiCorp/ScottishPower of the obligation to comply with the provisions of Chapter 80.12 RCW and applicable rules and regulations thereunder.

31. With respect to the ratemaking treatment of affiliate transactions, PacifiCorp/Scottish Power shall comply with the Commission's then-existing practice. In accordance with current practice, PacifiCorp/Scottish Power shall not contest the Commission applying the more advantageous of cost or market pricing standard, where a market for goods or services or assets exists.

32. PacifiCorp/Scottish Power agree not to cross-subsidize between the regulated and non-regulated businesses or between any regulated businesses, and shall comply with the Commission's then-existing practice with respect to such matters.

33. In the event any other state Commission or its Staff undertakes an audit of cost allocations and affiliated transactions between the utility and non-regulated businesses, PacifiCorp/Scottish Power will provide Staff and Public Counsel with a copy of any report or document resulting from such audit.

34. PacifiCorp/Scottish Power agree to provide Staff and Public Counsel access to books and records (including those of the parent or affiliate companies) required to be accessed to verify or examine transactions affecting PacifiCorp's regulated utility operations and such books and records shall be provided at a location within Pacific Power's service territory (as of July 31, 1999) in English. PacifiCorp/Scottish Power will provide conversions to United States dollars as appropriate. Administratively, requests for such books and records made by the Commission, its Staff or Public Counsel shall be deemed presumptively valid, material and relevant. PacifiCorp/Scottish Power reserve the right to challenge any such request before the Commission and shall have the burden of demonstrating that any such request is not valid, material or relevant.

35. PacifiCorp/Scottish Power shall maintain the necessary books and records so as to provide an audit trail for all corporate or affiliate transactions that impact the PacifiCorp regulated utility operations.

36. PacifiCorp/Scottish Power shall not assert in any future Washington proceeding that the provisions of the Public Utility Holding Company Act of 1935 or the related Ohio Power v FERC case preempt the Commission's jurisdiction over affiliated interest transactions and will explicitly waive any such defense in those proceedings. In the event that PUHCA is repealed or modified, PacifiCorp/Scottish Power agree not to

seek any preemption under any subsequent modification or repeal of PUHCA.

37. On an annual basis on or before July 1st of each year, PacifiCorp shall file an affiliate transactions report which includes the following: an organizational chart showing the parent company and all subsidiaries; a narrative description of each affiliate with which PacifiCorp does business; the revenue for each affiliated entity with which PacifiCorp does business; a report of transactions between each affiliate and PacifiCorp; and a description of any intercompany loans. Reports filed by PacifiCorp/Scottish Power pursuant to the Commission's regulations may be used, to the extent applicable, to fulfill these requirements. Additionally, PacifiCorp/Scottish Power shall not assert in any Washington proceeding preemption by a United Kingdom or other foreign regulator over cost allocations or affiliate interest transactions.

38. In the event that PacifiCorp/Scottish Power do not comply with any or all of the conditions in this stipulation, Staff and Public Counsel will propose appropriate ratemaking adjustments to give full effect to these conditions. PacifiCorp/Scottish Power do not contest the Commission's authority to disallow, for retail ratemaking purposes, unsupported, unreasonable, or misallocated costs from nonregulated or affiliate business to PacifiCorp/Scottish Power.

39. Nothing in this Stipulation shall preclude the Commission from participating in related proceedings before the Federal Energy Regulatory Commission or the United States Securities and Exchange Commission.

40. Nothing in this Stipulation affects the ability of PacifiCorp/Scottish Power to request confidential treatment of information or documents they believe to be valuable commercial information within the meaning of RCW 80.04.095 when such information or documents are filed with the Commission or Commission Staff, or made available to them or their agents, in compliance with these conditions. Any request for confidential treatment will be handled as provided in Chapter 480-09 WAC of the Commission's Rules of Practice and Procedure and in accordance with Chapter 42.17 RCW and RCW 80.04.095. This provision has no affect on the ability of Staff or any other person to challenge the claim of confidentiality as to any document filed by the company or made available to Staff.

GENERAL TERMS AND CONDITIONS

41. PacifiCorp, Scottish Power, Staff and Public Counsel agree that this Stipulation represents a resolution of the issues between them. As such, all discussions, evidence or conduct relating to this Stipulation are privileged and confidential.

42. Staff and Public Counsel recommend that the transaction be approved subject to the conditions set forth in this Stipulation and, in the case of Public Counsel, subject to the further conditions set forth in the separate Stipulation and Settlement of

Issues Related to Low-Income Customers. The Parties agree that no further conditions are necessary for the Commission to find that the transaction is in the public interest.

43. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and shall support adoption of the Stipulation in proceedings before the Commission. Each Party shall make available at hearing a witness in support of the Stipulation, at which time other parties to the proceeding would have an opportunity to cross-examine such witnesses on the Stipulation and their prefiled testimony. In the event the Commission rejects all or any material portion of this Stipulation or imposes additional, material conditions in approving the Application, each Party reserves the right to withdraw from the Stipulation. In such case, no Party to this Stipulation shall be bound or prejudiced by the terms of this Stipulation and each Party shall be entitled to seek reconsideration of the Commission Order, file any testimony it chooses, to cross-examine witnesses and in general to put on such case as it deems appropriate.

44. PacifiCorp, Scottish Power, Staff and Public Counsel agree that this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable.

45. No Party shall be bound by any position asserted in the negotiations, except to the extent expressly stated in this Stipulation. Execution of this Stipulation shall not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation, and no Party shall be deemed to have agreed that any method, theory or principle of regulation employed in arriving at this Stipulation is appropriate for resolving any issue in any other proceeding. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.

46. The obligations of PacifiCorp/ScottishPower under this Stipulation are subject to the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: August __, 1999

**Staff, Washington Utilities and
Transportation Commission**

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FINAL DRAFT
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