

ORDER NO. 99-00616

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

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REGISTERED DOCUMENT

In the Matter of the Application of Scottish Power plc and PacifiCorp for an Order Authorizing Scottish Power plc to Exercise Substantial Influence Over the Policies and Actions of PacifiCorp.)

ORDER

DISPOSITION: APPLICATION GRANTED

BACKGROUND AND PROCEDURAL HISTORY

On December 31, 1998, PacifiCorp and Scottish Power plc (ScottishPower) (collectively Applicants) filed a joint application with the Public Utility Commission of Oregon (Commission), seeking a Commission order authorizing ScottishPower to exercise substantial influence over the policies and actions of PacifiCorp, pursuant to ORS 757.511, and authorizing the issuance of PacifiCorp common stock incidental to the proposed transaction, pursuant to ORS 757.410 and 757.415. As a result of the proposed transaction, ScottishPower will become an affiliated interest of PacifiCorp, as defined in ORS 757.015(1) and (2).

The proposed transaction is described in the Amended and Restated Agreement and Plan of Merger between New Scottish Power plc, Scottish Power plc, NA General Partnership, and PacifiCorp, filed with the Commission on March 31, 1999, as Appendix 1-A.¹ A Merger Sub will be established to consummate the merger.² The Merger Sub will be an Oregon corporation wholly owned by NA General Partnership, which is a Nevada corporation indirectly wholly owned by Scottish Power plc. The Merger Sub will merge with and into PacifiCorp, with PacifiCorp as the surviving entity. Thereafter PacifiCorp will become an indirect, wholly-owned subsidiary of New Scottish Power plc. New Scottish Power is intended to be a new holding company for Scottish Power plc. New Scottish Power plc will be renamed Scottish Power plc, and Scottish Power plc will be renamed Scottish Power UK plc.

¹ The Amended and Restated Agreement and Plan of Merger replaces the original Agreement and Plan of Merger filed with the joint application as Appendix 1 on December 31, 1998.

² The Merger Sub will be formed immediately prior to the closing date of the merger for the purpose of effectuating the merger. Amended and Restated Agreement and Plan of Merger at 2.

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According to the joint application, ScottishPower is a public limited company registered in Scotland, with multi-utility businesses in the United Kingdom, including approximately five million customers in three distinct geographic areas across Scotland, England, and Wales. ScottishPower provides electricity generation, transmission, distribution and supply; water and wastewater services; gas supply; telecommunications; electrical appliance retailing; and technology and contracting services. It has a market capitalization of more than \$12 billion, with assets of approximately \$9 billion, shareholder equity of approximately \$2.75 billion, and annual revenues of approximately \$5 billion. With regard to its experience in the electric industry, ScottishPower, through one or more of its businesses, owns and operates coal, hydroelectric, and wind generating facilities with a net available capacity of 3500 megawatts (MW), and operates 62,000 kilometers of underground cable and 50,000 kilometers of overhead lines.

The Commission opened this docket to determine whether approval of the joint application will "serve the public utility's customers in the public interest," as required by ORS 757.511(3). Although the statute allows the Commission only 19 business days within which to make this determination, PacifiCorp and ScottishPower extended the deadline on several occasions, with the last extension ending on October 6, 1999.

A prehearing conference was held on January 29, 1999, to discuss timelines for intervention, discovery, prefiled testimony, settlement conferences, and the hearing. The procedural schedule adopted at the conference was subsequently memorialized in a Conference Report issued on February 4, 1999. More than 30 parties were granted intervention in this docket.³ They include representatives of PacifiCorp's residential and industrial customers, other electric and gas utilities, the Bonneville Power Administration (BPA), several cities, and various individuals and representatives of numerous public interest groups.

Applicants filed an amendment to their application on March 31, 1999, reflecting changes in the merger agreement. Public comment meetings were held in Portland, Medford, Klamath Falls, and Bend on, respectively, May 19, 1999, May 25, 1999, May 26, 1999, and May 27, 1999. A workshop was held on March 15-16, 1999, and settlement conferences were held on May 6-7, 1999, June 7-8, 1999, June 15 and 17, 1999, and July 13-14, 1999. On July 14, 1999, three stipulations were filed: the Stipulation Relating to Conservation Programs, the Stipulation Relating to Low Income Customers, and the Stipulation Relating to Low Income Weatherization. A fourth stipulation, the Stipulation Relating to Performance Standards and

³ The following persons or entities were granted intervention: Center for Environmental Equity; Utility Reform Project; Portland General Electric Company; Pope and Talbot, Inc.; Northwest Natural Gas Company; Citizens' Utility Board of Oregon; Robert Gilkey; NW Energy Coalition; Natural Resources Defense Council; Avista Corporation; Lloyd K. Marbet; Vulcan Power Company; Nancy J. Newell; Charles L. Best; Industrial Customers of Northwest Utilities; Renewable Northwest Project; Oregon Wildlife Federation; Northwest Geothermal Company; Community Action Directors of Oregon; Oregon Energy Coordinators Association; Ater Wynne LLP; City of Portland; Roseburg Forest Products; Local Union #659, I.B.E.W.; Weyerhaeuser Company; Public Power Council; Northwest Environmental Advocates; Eugene Rosolie; Daniel W. Meek; Tillamook People's Utility District; City of Hermiston; and Bonneville Power Administration.

Customer Guarantees, was filed on July 22, 1999, as an attachment to the Hearing Procedure List. A fifth stipulation, the Stipulation Supporting Approval of Application of ScottishPower and PacifiCorp Under ORS 757.511, was filed on July 27, 1999. On July 28, 1999, the parties filed a Second Revised Hearing Procedure List.

The hearing commenced on July 29, 1999, and concluded on July 30, 1999.⁴ At the time of the hearing only two parties continued to actively oppose the proposed merger transaction: the Industrial Customers of Northwest Utilities (ICNU) and Vulcan Power Company (Vulcan). Approximately two-thirds of the way through the hearing, Vulcan withdrew its objections to the Applicants' joint application, based upon clarifications and commitments made during the course of the hearing. One set of simultaneous briefs was filed by various parties on August 13, 1999.

FINDINGS OF FACT

The Public Utility Commission of Oregon, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Stipulations and Conditions

The main provisions of the five stipulations are summarized below. The full provisions are set forth in the stipulations themselves, and the summaries are not intended to substitute for the text of the stipulations.

1. Stipulation Relating to Conservation Programs

This stipulation was executed on July 13, 1999, between Applicants, Citizens' Utility Board of Oregon (CUB), NW Energy Coalition (NWEC), City of Portland, Renewable Northwest Project (RNP), Natural Resources Defense Council (NRDC), Oregon Energy Coordinators Association (OECA), and the Staff of the Commission (Staff). The purpose of the stipulation is to resolve all issues among the signatory parties relating to the impact of the merger on PacifiCorp's conservation programs in the State of Oregon.

ScottishPower and PacifiCorp agree to establish a working group to evaluate specific conservation programs and review existing conservation and low income weatherization tariffs. Applicants further agree to fund conservation programs at a level of \$6 million per year for a period of three years following closing of the merger. A portion of the \$6 million spending commitment will be used to fund the Northwest Energy Efficiency Alliance (NEEA) and low income weatherization. Funding of NEEA will be continued for an additional five years, at a level of \$2 million per year, or PacifiCorp's proportionate share of total NEEA funding, if

⁴ The hearing was postponed by one day from its originally scheduled start date of July 27, 1999. As a result of the stipulations, a number of parties waived cross-examination of each other's witnesses; therefore, the full three days originally scheduled for the hearing were unnecessary. The one-day postponement provided the Commission and the parties with additional opportunity to study the fifth stipulation prior to the hearing.

different. Funding of low income weatherization will be budgeted at a level of not less than \$500,000 per year.

The costs of the conservation program funding are to be recoverable under PacifiCorp's System Benefits Charge (SBC).⁵ The three-year commitment and \$6 million spending level is intended to support conservation programs during the industry's transition toward competitive markets, but the terms of the stipulation will be superseded by any restructuring legislation that subjects PacifiCorp to conservation funding requirements. The stipulation also acknowledges that all conservation programs and tariff revisions require Commission approval prior to implementation.

2. Stipulation Relating to Low Income Customers

This Stipulation was executed on July 13, 1999, between Applicants, Oregon Housing and Community Services Development (OHCSO), Community Action Directors of Oregon (CADO), OECA, CUB, Oregon HEAT, and NWEA.⁶ The purpose of the stipulation is to resolve all issues among the signatory parties relating to the impact of the merger on low income customers.

ScottishPower and PacifiCorp agree to work with the signatory parties and other appropriate partners to identify cost-effective programs that provide sustained benefits to low income customers through reduction of energy usage and improvement in customers' ability to pay current and past electric bills. The stipulation lists a number of elements that will be considered in the process of identifying such programs. The stipulation also provides that Applicants will commit to funding low income initiatives in the State of Oregon with shareholder funds at a level of \$400,000 per year over and above the \$114,000 spent on similar programs in 1998. In addition, the stipulation notes that any programs funded must maximize cost-effectiveness and meet all regulatory and business requirements.

3. Stipulation Relating to Low Income Weatherization

This stipulation was executed on July 13, 1999, between Applicants, OECA, CADO, OHCSO, and NWEA. The purpose of the stipulation is to specify a working process among the signatory parties to develop recommended changes to PacifiCorp's current low income weatherization tariff. The stipulation notes that it addresses separate concerns of OECA,

⁵ The SBC is a non-bypassable charge on distribution services that was included as part of a distribution-only alternative form of regulation (AFOR) approved for PacifiCorp dba Pacific Power and Light Company in Case No. UE 94. See generally *In re the Revised Tariff Schedules in Oregon Filed by PacifiCorp, dba Pacific Power and Light Company*, UE 94 (Phase II), Order No. 98-191 (OPUC May 5, 1998). The charge is intended to recover the costs of Demand Side Management (such as conservation) and to provide incentives for the development of renewable resources.

⁶ Although OHCSO is a signatory party to the Stipulation Relating to Low Income Customers and the Stipulation Relating to Low Income Weatherization, and Oregon HEAT is a signatory party to the Stipulation Relating to Low Income Customers, neither OHCSO nor Oregon HEAT sought to intervene in this proceeding. Thus neither are formally parties in this docket.

enabling it to sign two of the other stipulations, the Stipulation Relating to Conservation Programs and the Stipulation Relating to Low Income Customers.

The stipulation provides that within 60 days after the closing of the merger, PacifiCorp will file a revised low income weatherization tariff that eliminates the \$1,000 funding cap for cost-effective weatherization measures, and allows weatherization under some circumstances in houses that have been previously weatherized. In addition, the stipulation indicates that ScottishPower and PacifiCorp will work with OECA to develop further recommendations for changes to the existing tariff. OECA acknowledges in the stipulation that all changes must be approved by the Commission.

4. Stipulation Relating to Performance Standards and Customer Guarantees

This stipulation was executed on June 15, 1999, between Applicants and Staff. The purpose of the stipulation is to resolve all issues among the signatory parties relating to the network performance standards, customer service performance standards, and customer guarantees proposed in the prefiled testimony of the Applicants.

ScottishPower and PacifiCorp agree to modify PacifiCorp's AFOR (as specified in Attachment A to the stipulation) for the purpose of incorporating the benefits of the Network Performance Standards that were proposed in their prefiled testimony into the framework of the existing AFOR. Certain other standards are withdrawn and not included. Existing Service Quality Measures (SQM)⁷ in the present AFOR will be extended through December 31, 2009. The commitment to achieve a 10 percent improvement in system average interruption duration indices (SAIDI) and system average interruption frequency indices (SAIFI) by 2005 will be taken into account by the Commission in the establishment of Revenue Requirement Reduction (RRR) lines 1 and 2 for the years 2005 through the end of the SQM term. The adjustment of the RRR lines shall separately take into account any long-term improvements that would have been achieved absent the merger. ScottishPower commits to developing improved methods to measure momentary average interruption frequency indices (MAIFI and MAIFIE) for individual customers. A new SQM entitled "Service Restoration Indicator" will be included in the modified AFOR SQMs.

Staff agrees that no modifications are required to ScottishPower's proposed Customer Service Performance Standards 6 and 7. With regard to the Customer Guarantee proposal, Applicants agree to the following: a modification of Customer Guarantee 1 (restoration time); a replacement of Customer Guarantee 5 (responses to customer billing inquiries) and Customer Guarantee 6 (tests of meters and related equipment) with new language; a supplementation of the language in Customer Guarantee 8 (meter accuracy program); and an addition of two conditions involving a review of the guarantees with Staff within two years of

⁷ The SQMs are also part of the distribution-only AFOR approved in Case No. UE 94 (Phase II). They are performance measures for evaluating service quality and include revenue requirement reductions for poor performance.

the closing of the merger, and quarterly reports to the Commission on performance under the guarantees, beginning the first full calendar quarter after the closing of the merger.

5. Stipulation Supporting Approval of Application of ScottishPower and PacifiCorp Under ORS 757.511

This stipulation was executed on July 26, 1999, between Applicants, Staff, and CUB. The purpose of the stipulation is to resolve all outstanding issues among the signatory parties. The stipulation notes that it is designed to be complementary to the other four stipulations, and does not replace or supersede them in any way.

The stipulation contains two attachments, (1) Exhibit 1, which includes a list of 24 merger conditions, and (2) an appendix, which includes a list of ScottishPower's Oregon commitments not otherwise contained in signed stipulations or conditions that are under the umbrella of the Commission's regulatory authority. The stipulation states that the merger conditions in Exhibit 1 should be incorporated in any final Commission order approving the joint application. The merger conditions, in turn, specifically reference two of the other four stipulations, the Stipulation Relating to Conservation Programs, and the Stipulation Relating to Performance Standards and Customer Guarantees, as well as the appendix. The merger conditions contained in Exhibit 1 to the stipulation include provisions as follows:

Merger Credit: Applicants agree to a merger credit for a four-year period beginning in 2001. The credit will be \$9 million for years 2001, 2002, and 2003, and \$12 million for year 2004. An additional credit of \$3 million per year for the same four-year period will be provided to reflect the revenue requirement impact of expenditures necessary to implement the service performance standards and guarantees. This credit, along with the \$9 million for the years 2001 and 2002, cannot be offset or reduced. However, the \$9 million and \$12 million credit for years 2003 and 2004, respectively, may be offset or reduced to the extent that cost reductions related to the merger are reflected in rates. The Commission may require PacifiCorp to file a rate case by March 1, 2004, if the Company's earnings fall outside a zone of reasonableness.

Performance Standards and Customer Guarantees: Applicants agree to implement specific service quality improvements pursuant to the Stipulation Relating to Performance Standards and Customer Guarantees.

Transition Plan: Within six months of the closing of the merger, ScottishPower will file a merger transition plan, which is intended to set forth ScottishPower's plan to transform PacifiCorp's operations, including timelines, actions necessary to implement the merger and realize benefits and cost savings, capital and operating expenditures, and workforce changes.

Conservation: Applicants agree to implement the conservation provisions contained in the Stipulation Relating to Conservation Programs.

Rate Effects of the Merger: Applicants agree to exclude all costs of completing the transaction from PacifiCorp's utility accounts and agree to hold customers harmless from a higher revenue requirement for PacifiCorp than if the merger had not occurred. Rates will also be affected by the merger credit described above.

Financial Issues: Applicants agree that PacifiCorp will maintain a minimum common equity ratio and will not seek a higher cost of capital than it would have been authorized on its own. In addition, Applicants agree to maintain separate debt and preferred stock ratings, and to provide notice of certain distributions from PacifiCorp to ScottishPower.

Affiliated Interest and Cost Allocation Issues: Applicants agree to a number of conditions designed to assure that customers are protected from increased costs related to cost allocations and affiliated interest transactions, including a commitment that PacifiCorp's total corporate costs will not rise as a result of the merger, a waiver of any defense that the Commission's jurisdiction over affiliated interest transactions is preempted by the Public Utility Holding Company Act of 1935 (PUHCA) or *Ohio v. FERC*, and an agreement to maintain an audit trail for cost allocations.

Access to Books and Records: Applicants agree to a number of conditions designed to assure that the Commission has access to information and records, necessary to perform its regulatory oversight role, of both ScottishPower and PacifiCorp.

Enforcement: Condition 24 sets forth a procedure for the enforcement of the merger conditions. If the Commission finds that either ScottishPower or PacifiCorp has violated one or more conditions, it may seek penalties in circuit court pursuant to ORS 756.990.

Other Commitments (Appendix): In addition, Applicants also agree to implement the conditions contained in the appendix to the stipulation. These include a number of commitments pertaining to customer service and the environment.

ScottishPower will develop an improved system of outage reporting for the measurement of network performance standards. Within 120 days of the merger, 80 percent of phone calls to PacifiCorp's business centers will be answered within 30 seconds; by January 1, 2001, 80 percent within 20 seconds; and by January 1, 2002, 80 percent within 10 seconds. Within 90 days of the merger, non-disconnect complaints shall be responded to within 3 business days; disconnect complaints shall be responded to within 4 business hours; and complaints referred by the Commission shall be resolved within 30 days. PacifiCorp will pay a penalty of \$50⁸ if it fails to meet the following customer service guarantees: (1) restoration of power within 24 hours; (2) keeping mutually agreed appointments; (3) activation of power supply within 24 hours when no construction is required and government requirements are met; (4) providing estimates for new power supplies within 5 business days when no network changes are needed, and within 15 business days when network changes are needed; (5) providing customers with

⁸ For guarantees 1 and 5, the penalty is \$100 if the customer is a commercial or industrial customer.

2 days' advance notice for planned power interruptions; and (6) initiating an investigation within 7 days or providing a written explanation within 5 days, for power quality complaints.

Applicants also commit to the development or acquisition of an additional 50 MW of system-wide renewable resources, under certain conditions. The conditions generally involve cost recovery through the SBC in the AFOR. PacifiCorp will also implement a "green resource" tariff,⁹ will contribute \$100,000 in shareholder funds to the Bonneville Environmental Foundation, and will implement environmental management systems.

Positions of the Parties

ICNU

ICNU alleges that ORS 757.511 requires a showing of substantial net benefits, based on the plain language of the statute, which suggests a two-part test: that the merger *serve* the utility's customers *and* that the merger is in the public interest. The word "serve" means "promote the interests of." ICNU submits that this choice of words was a rejection of the more liberal public interest standard for intrastate mergers. ICNU contends that Commission precedent in the Portland General Electric Company/Enron Corp.¹⁰ (PGE/Enron) (Order No. 97-196) and Pacific Power and Light Company/Utah Power and Light Company (Pacific Power/Utah Power) (Order No. 88-767) mergers supports a requirement of net benefits, as both orders relied on the benefits shown to approve the mergers. ICNU maintains that other states have adopted a net benefits test.

According to ICNU, the application does not provide net benefits since the claim of lower rates is unverifiable; there is no showing that merger savings will exceed incremental expenditures following the merger; "gold-plated" service is not a benefit when customers are satisfied with service quality; shareholders might retain cost savings; and the merger poses more risk than the PGE/Enron merger. There will not be net benefits unless the merger conditions are modified. Many of the conditions will require a "but for" analysis in the future that is unworkable.

Condition 3 must be modified to ensure all merger costs are excluded from rates. For example, Applicants characterize the transition plan cost as both a merger benefit and an ordinary cost. This cost should be excluded from rates. ICNU also asserts that Condition 7 should be modified to protect against detrimental merger-related changes in capital costs. To protect against such changes, the Commission should be allowed to use a hypothetical capital structure based on comparable A-rated electric utilities, similar to what was provided in the Utah Stipulation. Condition 10 must contain a firm commitment that rates will not go up as a result of the merger. There is also an incentive for Applicants to assume PacifiCorp would have stood still and not

⁹ A "green resource" tariff allows customers to purchase energy derived from environmentally-friendly resources, often at a cost that is above the cost of energy from other resources.

¹⁰ The merger was between Portland General Corporation (PGC) and Enron. PGE was at the time a wholly-owned subsidiary of PGC.

reduced costs on its own, which ICNU contends is not a reasonable assumption. Customers are not protected against increases in rates because of incremental costs associated with investments in renewables and conservation. The promised 50 MW of renewables is a de facto extension of the AFOR that avoids a normal prudency review. Customers are not protected regarding interjurisdictional cost recovery.

Additionally, ICNU argues that Condition 18 must provide a larger credit to adequately protect customers against merger-related costs and risks. There are several identifiable risks too novel to quantify. The credit is significantly lower than in the PGE/Enron merger, where customers were compensated for PGE's goodwill and expertise. Because the credit does not take effect immediately, ICNU argues it is more likely that the credit will be offset with rate increases. If the reason for the delay is to give the Company time to achieve the cost savings, then the credit only reflects dollars that rightfully belong to customers under traditional ratemaking principles.

Finally, ICNU maintains that the merger conditions also ignore the existence of SB 1149.¹¹ If the Company opposes implementation by filing a legal challenge to SB 1149, it would frustrate the law's purpose. At the hearing Applicants testified that the 50 MW of renewables is in addition to the requirements of SB 1149 and that cost recovery would be sought through rates if not recovered through a systems benefit charge, but this conflicts with SB 1149's requirement that all costs for public purposes be removed from rates. Condition 19 may also conflict with SB 1149's requirement of unbundling by 2001, since a "general rate filing" will be obsolete by 2004.

PacifiCorp, ScottishPower, and Staff

Applicants and Staff disagree on the legal standard. Applicants believe it is "no harm," and Staff believes it is "net benefits." Applicants and Staff submit that the Commission can approve the application without addressing the legal standard, as it did in the PGE/Enron merger case.

Applicants and Staff assert that net benefits will result from the transaction. They summarize the benefits, commitments, and conditions in their joint brief and in their joint testimony in support of the Stipulation Supporting Approval of Application of ScottishPower and PacifiCorp Under ORS 757.511.¹² Any risks associated with the transaction are adequately addressed through conditions or offset with benefits. While the ownership of PacifiCorp would change after the merger, the Company would continue to operate on a stand-alone basis, headquartered in Portland, and the Commission would continue to have a similar degree of regulatory oversight over the Company.

¹¹ SB 1149 is a bill relating to the restructuring of the electric power industry in Oregon. It was signed into law on July 23, 1999, and contains an emergency clause declaring that the Act takes effect upon its passage.

¹² Because the various stipulations have been summarized on pp. 3-8 of this order, no purpose would be served by repeating the summaries of Applicants and Staff.

Applicants and Staff contend that there is no basis for ICNU's first risk, its fear that the merger will lead to increased costs. The merged PacifiCorp will exclude the acquisition premium, will not seek a higher cost of capital, will maintain a minimum equity ratio, will have a separate debt rating, and will provide notice of certain distributions. (Conditions 3, 7, 6, 5, and 9). Conditions 11, 12, 13, 14, 20, and 21 provide safeguards regarding cost allocations and affiliated transactions, while Conditions 1, 2, 4, 8, and 15 provide assurance of access to necessary information. Condition 24 provides a mechanism for expedited enforcement of the Stipulation. ICNU contends that the conditions are unworkable, but it does not explain how these conditions are any more difficult to implement than the ordinary complex and difficult ratemaking principles under which the Commission operates. ICNU's objection would make it impossible for any merger to be approved.

Applicants and Staff characterize ICNU's second risk, that this merger would preclude a merger with a domestic utility from which synergies could be derived, as a concern that a different merger could provide more cost savings. However, the proposed merger must be compared with the status quo and not some hypothetical merger. In addition, a domestic merger would present different risks, such as market power problems.

ICNU's third risk is that ScottishPower might divert money or attention from PacifiCorp by engaging in additional acquisitions or by retracting PacifiCorp's promised autonomy. Applicants and Staff maintain that there is no support in the record for this. To the contrary, ScottishPower views its investments in the long-term. Also, PacifiCorp will be adequately represented on ScottishPower's Board of Directors.

ICNU's fourth risk is that the continuation of PacifiCorp's AFOR could deprive customers of cost decreases that would occur without the merger. Applicants have not proposed any extension of the rate aspects of the AFOR, only a two-year extension of the SQMs and an extension of the SBC and renewables incentive portion of the AFOR, with an increase in the AFOR cap on eligible renewable resources.

ICNU's final risk is that ScottishPower might try to oppose industry restructuring and deregulation efforts, such as SB 1149. Applicants and Staff submit that the evidence is to the contrary. ScottishPower embraced competition in the U.K. and testified that it would comply with the U.S. law. The [fifth] stipulation is not inconsistent with SB 1149. The merger credit provisions anticipate the disaggregation of PacifiCorp's assets, and Conditions 13 and 14 also address the potential development of a competitive market.

Lastly, Applicants and Staff urge the Commission to reject the following six conditions proposed by ICNU for the first time at the hearing because the six conditions either do not address merger-related risks or are unnecessary.

ICNU Condition 1 would require ScottishPower to prepare and file a proposal to implement SB 1149 within certain timeframes. Applicants and Staff maintain that this condition does not address any identified risk. In addition, it would be more appropriate for the Commission to establish a schedule of its own that includes all affected utilities.

ICNU Condition 2 would require ScottishPower to abide by a condition in the Pacific Power/Utah Power merger. ICNU characterizes the condition in the prior Utah Power merger case as a requirement that "Oregon rate payers will be held harmless from the higher costs of Utah Power." ICNU Exh. 58. Applicants and Staff maintain that this condition is also unnecessary since the Company testified that to the extent there is a condition already in place, it would continue to honor that commitment.

ICNU Condition 3 would require the addition of the language "rates shall not increase as a result of this merger" to Merger Condition 10. Applicants and Staff maintain that the language in Merger Condition 10 is adequate and that the language sought by ICNU was not required in the PGE/Enron merger.

ICNU Condition 4 deals with the sale of power outside PacifiCorp's service territory and would require related purchase costs and revenues to be excluded from the Company's results of operations. Applicants and Staff maintain that this condition does not address any identified risk. They also state that Merger Conditions 13 and 14 fully address future competitive issues.

ICNU Condition 5 would require ScottishPower to file its long-term projections of PacifiCorp's costs absent the merger. Applicants and Staff maintain that this condition is unnecessary because the merger transition plan will provide a useful benchmark, and Applicants bear the burden of proof on this issue.

ICNU Condition 6 would require ScottishPower to file an annual report on the status of the merger conditions. Applicants and Staff maintain that this condition is unnecessary since the Applicants are already required to file a number of reports pursuant to the [fifth] stipulation, the Commission can always request additional information, and Merger Condition 24 provides an effective mechanism for enforcement of the merger conditions.

Vulcan

Vulcan claims that the pledge of 50 MW of renewable resources provides a benefit that would not occur without the merger.¹³ Vulcan further asserts that there are net benefits of \$168.6 million from reduced CO₂ gas emissions if the renewables are located outside Oregon, \$646 million if the renewables are located in Oregon, and \$711 million if the developer is also headquartered in Oregon. There is a risk that the net benefits will be lower if the renewables are located outside Oregon, and there is a risk of self-dealing by the Applicants and affiliates, but these risks are within the power of the Commission to mitigate or eliminate, either now or later.

¹³ Vulcan withdrew its objection to the joint application after Applicants clarified during the course of the hearing that its 50 MW renewables commitment was in addition to any requirements under SB 1149.

Utility Reform Project (URP) and Daniel Meek¹⁴

URP and Daniel Meek (collectively URP) argue that the settlement provides no benefits since the Commission could adopt the conditions in the stipulation without the agreement of the Applicants. The only merger condition that *might* provide benefits is the merger credit, but the *assurance* of a credit only totals \$30 million. Merger Condition 19 appears to prevent the Commission from requiring the Company to file a rate case before 2004, which is an unlawful predetermination that current rates will continue to be just and reasonable until 2004. Condition 24 appears to limit the Commission's enforcement powers. There are no benefits to the Conservation Stipulation because the conditions are less stringent and will be superseded by SB 1149, and the Company may be able to influence the recommendations of the working group by dictating the membership of that group.

URP also contends that the renewable resources commitment has no benefit because "all costs are to be paid by ratepayers, and appear to be less than the amounts required under SB 1149 in any event." (Brief of URP and Daniel Meek at 4.) The \$100,000 to Bonneville Environmental Foundation confers a tiny benefit. The Low Income Customers Stipulation provides few benefits because it is heavily conditioned by vague language, and the program to improve customers' ability to pay bills is actually a benefit to the utility itself. The Low Income Weatherization provides no additional funds for weatherization.

NRDC, CUB, RNP, OECA, CADDO, and NWECC¹⁵

These parties state that the stipulations and other conditions provide a net benefit, although they do not eliminate all risks. Risks can be addressed by working with ScottishPower.

RNP

In addition to the joint brief described above, RNP also filed a separate brief detailing the benefits of renewable resources: renewables have no fuel cost; offer portfolio diversity (energy supply independence); have less volatile operating costs; avoid overbuild; reduce exposure to future environmental control/tax laws; provide economic, employment, and tax benefits, especially in rural areas; and improve regional air quality. RNP supports the stipulations.

Discussion Regarding the Joint Application

The Commission will discuss its findings regarding the joint application based upon the issues presented to the Commission by the parties in the Second Amended Hearing Procedure List.

¹⁴ The Utility Reform Project (URP) and Daniel Meek did not attend the hearing; therefore, it is unclear whether these parties are aware of the clarifications and commitments made during the hearing, or how that might affect their positions.

¹⁵ NWECC's brief was filed separately, but it repeats what was said in the joint brief of NRDC, CUB, RNP, OECA, and CADDO.

What does the legal standard require PacifiCorp and ScottishPower to demonstrate in this proceeding to obtain an order approving their application – net benefits or no harm?

Applicants maintain that the applicable legal standard under ORS 757.511 requires a showing of “no harm” to the utility’s customers. In contrast, the other parties, including Staff and ICNU, contend that ORS 757.511 requires a showing of “net benefits” to the utility’s customers. Because Applicants claim that they have met the “higher” standard of demonstrating that net benefits will result from the merger, they have chosen not to brief the issue of the proper interpretation to be given to the legal standard contained in ORS 757.511. Both Applicants and Staff suggest in their joint brief that a resolution of the controlling legal standard is unnecessary and that the Commission can instead make a finding that Applicants have satisfied either interpretation of the standard, much as it did in the PGE/Enron merger, Case No. UM 814, Order No. 97-196.

The Commission observes that ICNU is the only party that briefed the issue of the proper interpretation to be given the legal standard embodied in ORS 757.511. However, it is not necessary for the Commission to rule in this case on what is the applicable legal standard inasmuch as the stipulation, as discussed below, will provide net benefits to PacifiCorp’s customers. Thus, both the “no harm” and “net benefits” standards are met.

Will net benefits result from the proposed transaction?

The Commission finds that net benefits will result from the proposed transaction.¹⁶ Applicants have agreed to provide a merger credit totaling up to \$51 million over a four-year period. Of the \$51 million, up to \$12 million (\$3 million for each of the four years) will be used to fund improvements that will upgrade PacifiCorp’s ability to meet the higher network performance standards and customer service standards promised by ScottishPower. While up to \$21 million (\$9 million for 2003 and \$12 million for 2004) of the \$51 million may be offset or reduced to the extent that cost reductions related to the merger are reflected in rates, this amount still provides a real benefit to customers. Customers would realize the benefits of the \$21 million in one of two ways. This portion of the \$51 million credit might be delivered to customers directly through rates (if cost reductions are not reflected in rates) or indirectly through a new base rate case. If the latter, the credit would be offset, in whole or in part, by merger-related cost savings reflected in the expense component of the revenue/rate base/expense formula used to calculate the Company’s revenue requirement. In turn, this would lead to a

¹⁶ The Commission stresses that its *finding* of net benefits should not be interpreted as a *requirement* that net benefits be shown. The Commission emphasizes this point because ICNU has apparently interpreted the Commission’s past decision in the PGE/Enron merger case as precedent for a requirement of net benefits, even though the Commission specifically found that it did not need to decide the issue of the appropriate standard in that case, simply because the order relied on net benefits to approve the merger. See *In Re the Application of Enron Corp for an Order Authorizing the Exercise of Influence Over Portland General Electric Company*, UM 814, Order No. 97-196 (OPUC June 4, 1997), at 6.

lower revenue requirement than would otherwise be required, which would translate into lower rates. Thus the merger credit assures that the claimed benefits of the merger will be flowed through to customers.

The network performance and customer service improvements will also provide ongoing benefits to customers. The network performance improvements will affect customers' experience of PacifiCorp's distribution service, and the customer service improvements will affect customers' experience of interaction with the Company. For example, as a result of the network improvements, the duration and frequency of interruptions that customers experience should decline. With regard to customer service, the amount of time to answer telephone calls from customers and to resolve customer complaints will be shortened. Applicants will also guarantee payment of a penalty (usually \$50) to individual customers if certain customer service standards are not met.¹⁷ These include the restoration of power supply, keeping appointments, service installation, estimates for installation of new service, responses to bill inquiries, meter testing, planned interruptions, and the handling of power quality complaints.

In addition, the SQMs, as modified by the stipulations, will be extended for a period of two additional years, from January 1, 2008, to December 31, 2009.¹⁸ Moreover, since the network and customer service improvements that Applicants have committed to will be incorporated in PacifiCorp's SQM's, PacifiCorp will risk financial penalties in the form of revenue requirement reductions for non-achievement of those standards. The costs of achieving the network performance standards and customer service standards will be borne by Applicants and not by customers, and benefits will exist even in the event of the disaggregation of PacifiCorp's generation and distribution functions.

Applicants presented evidence that a portion of the proposed network performance measures has a dollar value as high as \$60 million annually system-wide and up to \$600 million on a net present value basis. Staff places less value on these improvements, but does agree that they are beneficial. ICNU challenged the reliability of the studies used by Applicants to calculate the value of the improvements. While the actual dollar value of the service quality improvements is uncertain, the Commission agrees with Staff and the Applicants that they do provide a real benefit to customers. Given the general move toward the restructuring of the electric industry, benefits that target the quality of service received by customers are particularly apropos.

Applicants have also agreed to use shareholder funds to provide an additional \$400,000 in funding for low income initiatives and to contribute \$100,000 to the Bonneville

¹⁷ Condition 16 provides that the customer guarantee payments will not result in a waiver of any other right or claim that the customer might have against PacifiCorp, thus providing some assurance that the Company will not try to use the payments in lieu of making the promised service quality improvements.

¹⁸ The original SQMs in the AFOR are in effect for a period of ten years beginning January 1, 1998, and thus would end by January 1, 2008. Order No. 98-191, Appendix D at 8. The SQMs are independent of the existence of any AFOR plan. Order No. 98-191 at 6. The current AFOR plan ends June 30, 2001. *Id.* at 4.

Environmental Fund. While the funding for low income initiatives is more likely to directly benefit low income customers of PacifiCorp, the funding may also provide indirect benefits to the Company's customers at large, since the initiatives may help reduce the amount of uncollectibles that the Company experiences, which are in turn passed on to customers through rates. This is especially true if Applicants are successful in implementing programs that provide "sustained benefit" to low income customers.

Are there risks associated with the proposed transaction that PacifiCorp and ScottishPower have not addressed with conditions or offset with sufficient benefits?

The Commission has considered the risks associated with the proposed transaction and finds that these risks have been adequately mitigated by the merger conditions. One factor unique to the proposed transaction is that the acquiring company is based in another country. Several risks common to many merger transactions are that important books and records of the regulated company will be kept outside the Commission's jurisdiction, that the Commission will be denied access to important books and records of a parent or affiliate of the regulated company, or that affiliated interest transactions or cost allocations will be conducted in a way that results in a cross-subsidization by the customers of the regulated utility. These risks have the potential to be exacerbated when the acquiring company is based in a foreign country.

In the present case, however, PacifiCorp will operate on a stand-alone basis after the merger, although it will be indirectly wholly owned by ScottishPower. The Commission will continue to have essentially the same regulatory oversight over PacifiCorp that it would have absent the merger. The potential problems regarding access to books and records, and affiliated interest and cost allocation issues, have been adequately addressed in the merger conditions. PacifiCorp will be required to maintain its own accounting system separate from ScottishPower's and will keep all of its financial books and records at its headquarters in Portland, Oregon. The Commission will have access to records of ScottishPower pertaining to transactions between PacifiCorp and all of its affiliated interests, and the Commission will have authority to audit the accounting records of ScottishPower and its unregulated subsidiaries that are the bases for charges to PacifiCorp.

The merger conditions also include a number of provisions designed to prevent subsidization through affiliated interest transactions or cost allocations. Both PacifiCorp and ScottishPower will be required to comply with all Commission requirements regarding affiliated interest transactions, and PacifiCorp will be required to file detailed semi-annual reports regarding such transactions. Applicants' proposed cost allocation methodology will be reviewed, and the final methodology will comply with a number of principles set forth in the [fifth] stipulation, including the requirement that an audit trail be maintained and supported by appropriate documentation. Importantly, ScottishPower and PacifiCorp have agreed to waive in future proceedings any defense they may have that the Commission's jurisdiction over affiliated interest transactions is preempted by the PUHCA or *Ohio v. FERC*. Moreover, ScottishPower has agreed to subject itself to Commission jurisdiction regarding the imposition of penalties for violation of the merger conditions.

In addition, the Merger conditions contain financial protections to guard against increased costs relating to the merger. Applicants have agreed that all costs of completing the merger, including the acquisition premium, will be excluded from PacifiCorp's utility accounts and have agreed to hold customers harmless from a higher revenue requirement for PacifiCorp than if the merger had not occurred. PacifiCorp will be required to maintain a minimum common equity ratio, to maintain separate debt and preferred stock ratings, and to provide notice of certain distributions from PacifiCorp to ScottishPower. PacifiCorp may not seek a higher cost of capital than it would have been authorized absent the merger. The Commission will also have the option of requiring PacifiCorp to file a rate case by March 1, 2004, if the Company's earnings fall outside a zone of reasonableness. Significantly, Applicants clarified at the hearing that they would have the burden of proof with regard to Conditions 3 (exclusion of merger costs), 7 (no higher cost of capital), 10 (no higher revenue requirement), and 19 (Commission-required general rate filing).

Discussion Regarding the Positions of the Parties

These findings address the remaining arguments of the parties not addressed above.

ICNU claims that the proposed merger poses more risk than the PGE/Enron merger, but it does not adequately explain how this is so. It also asserts that the merger credit is less than that promised in the PGE/Enron merger. The Commission finds that a comparison with the Enron merger is not entirely appropriate. First, as pointed out by Staff in its Staff Addendum to Post-Hearing Brief, applications brought under ORS 757.511 must be decided on a case-by-case basis. Second, significant differences exist in some of the risks associated with the Enron merger and the proposed ScottishPower merger. For example, the Enron merger presented potential market power abuse problems, which the present application does not. In contrast, the proposed merger will result in PacifiCorp becoming owned by a company based in a foreign country, which was not the case in the Enron merger. Finally, the revenue requirement reduction associated with merger cost savings is not materially different from the Enron merger.¹⁹

ICNU also has some concerns regarding the efficacy of the merger conditions. In particular, ICNU is skeptical that a future "but for the merger" analysis can work. It appears that ICNU's analytical approach to the "but for" problem would be a requirement that ScottishPower file its long-term projections of PacifiCorp costs that would have occurred without the merger, as suggested in ICNU Condition 5. However, this approach does not solve the problem posed by ICNU. The projections will still be just that – projections of what PacifiCorp might have looked like in the future absent the merger. The Commission concurs that a "but for the merger" analysis can be difficult but observes that the instances in which such an analysis would most likely prove useful – the exclusion of merger costs, no higher cost of capital, no higher revenue requirement – involve the very issues upon which the Applicants have agreed to undertake the burden of proof. The risk is squarely on the Applicants in these circumstances. If ICNU's

¹⁹ Staff's Addendum indicates that in ScottishPower the approximate annual average merger cost savings is 1.7 percent over four years, while in Enron the approximate annual average was 1.0 percent.

argument is taken to its logical extension, no merger could ever be approved, since all mergers involve a certain level of uncertainty regarding a comparison of the status quo with the effect of the merger.

Nothing in the stipulations would prevent the Commission from using a hypothetical capital structure based upon comparable A-rated electric utilities to determine whether PacifiCorp is seeking a higher cost of capital than it would otherwise have been authorized. Therefore, ICNU's suggestion that such a condition be added to the Merger conditions is unnecessary. The Commission takes no position whether the use of such a hypothetical capital structure is appropriate; it only notes that nothing in this case would prevent its use.

ICNU also expresses concern that Applicants will have an incentive to assume that PacifiCorp would have stood still and not taken action on its own, absent the merger. However, it is clear that this concern was taken into consideration in drafting the various stipulations. For example, the Stipulation Relating to Performance Standards and Customer Guarantees specifically states, "The adjustment of the RRR [Revenue Requirement Reduction] lines shall also separately take into account any long-term improvements that would have been achieved absent the merger." Likewise, the appendix to the Stipulation Supporting Approval of Application of ScottishPower and PacifiCorp Under ORS 757.511 indicates that ScottishPower will commit to a review of its network performance standards to assess whether the standards are providing additional benefits to customers beyond that which would have been accomplished through pre-merger programs.

ICNU also contends that the merger conditions ignore the existence of SB 1149. The testimony at the hearing indicated that some of Applicants' commitments, such as the commitment to install 50 MW of renewable resources, were made before SB 1149 was even on the Senate Floor. Other testimony indicated that a close study of the stipulations and SB 1149 had not been made to check for consistency. However, the witnesses repeatedly testified that Applicants will follow the law, and that to the extent inconsistencies exist, the law will control and supersede the stipulations. The Commission agrees that the law controls, and thus finds that there is no need to reject the stipulations on the basis of possible inconsistencies with SB 1149.

In support of its general contention that inconsistencies may exist between the merger conditions and SB 1149, ICNU points out that the promised 50 MW of renewables may conflict with a provision in SB 1149 that requires public purpose costs (which includes new renewable energy resources) to be removed from rates. At the hearing, Applicants pointed out that the exception to the "hold harmless" provision in Condition 10 for renewables and conservation is conditioned upon the investments being cost-effective and subsequently approved by the Commission. More specifically with regard to the 50 MW renewables commitment, Applicants testified that there might be stranded cost exposure associated with the 50 MW of renewables as a result of electric restructuring; and thus, Applicants would want some assurance of cost recovery in order to proceed with that commitment. Applicants further indicated that they would not go forward with the investment if the Commission did not agree to cost recovery.

The Commission has reviewed SB 1149 and finds that it may complicate cost recovery for the promised 50 MW of renewables. The Act defines “new renewable energy resource” as a renewable energy resource project, or a new addition to an existing project, or the electricity produced by a project, “that is not in operation on the effective date of this 1999 Act.” Or Laws 1999, ch 865, § 1(21). The Act contains an emergency clause, and took effect on July 23, 1999. *See* Or Laws 1999, ch 865, § 46. SB 1149 further states that “[t]he commission shall remove from the rates of each electric company any costs for public purposes described in subsection (1) of this section that are included in rates. A rate adjustment under this paragraph shall be effective on the date that the electric company begins collecting public purpose charges.” Or Laws 1999, ch 865, § 3(3)(g). The collection of the public purpose charge is to commence “[b]eginning on the date an electric company offers direct access to its retail electricity consumers.” Or Laws 1999, ch 865, § 3(2)(a). One of the specified purposes for which the public purpose charge must be used is to fund “the above-market costs of new renewable energy resources.” Or Laws 1999, ch 865, § 3(1) and § 3(3)(b)(B).

Thus it would seem that it is at least arguable whether SB 1149 may prohibit the Commission from adding into rates cost recovery for any of the specified public purposes, such as the above-market costs of new renewable energy resources. As a result, the Commission is uncertain whether it will be able to allow cost recovery for Oregon’s share of the above-market cost of the 50 MW of renewables. The Commission also has concerns that the addition of renewable resources outside of the public purpose charge funding may result in stranded costs.²⁰

As previously noted, the 50 MW renewables commitment was made prior to enactment of SB 1149, Applicants did not do a comprehensive comparison of SB 1149 with the stipulations, and there may be inconsistencies with SB 1149. There is uncertainty over cost recovery, and there is uncertainty concerning whether it is in the public interest to approve the 50 MW of renewables over and above what would be required by SB 1149, given the potential for stranded costs. As a result, the Commission finds that the oral clarification made at the hearing – that the promised 50 MW of renewable energy was intended to be in addition to what would be required by SB 1149 – should be conditioned upon the following: (a) that the renewables are not inconsistent with SB 1149; (b) that they do not create stranded costs; (c) that they are cost-effective; and (d) they are approved by the Commission.

In addition, ICNU questions the efficacy of Condition 19, stating that a general rate filing may be obsolete by 2004. One of Staff’s witnesses explained at the hearing that the general rate filing contemplated by Condition 19 would include everything that is then regulated by the Commission. While the components of a general rate filing may change, the Commission finds that such a rate filing is not likely to become obsolete by 2004.

With regard to ICNU’s concern about whether the costs of the merger transition plan would be excluded from rates, the Commission finds that there may have been some

²⁰ The Act uses the terms “transition charge” and “transition credit” to refer to concepts that are commonly known in the industry as “stranded costs” and “stranded benefits.” *See* Or Laws 1999, ch 865, § 1(32) and (33).

confusion at the hearing concerning what matters would be addressed in the merger transition plan. This confusion may explain why the plan's costs were characterized in different ways. Applicants specifically testified that if there are costs related to the merger transition plan that would not have occurred under normal business practices but were incurred solely because of the merger, those costs would be excluded. Applicants further testified that to the extent net benefits are derived from the merger transition plan, the costs associated with providing the net benefits will be included in rates. To the extent there are no net benefits, the associated costs will be excluded. The Commission finds that a determination of whether some or all of the costs relating to the merger transition plan should be excluded can be made after the plan has been filed with the Commission. The Commission notes that Applicants have undertaken the burden of proof to show that all costs of completing the merger have been excluded from PacifiCorp's utility accounts.

Finally, the Commission has reviewed the six conditions proposed by ICNU at the hearing along with the responses of Applicants and Staff to those proposals. The Commission concurs with Applicants and Staff and finds that none of the six proposed conditions are necessary to find that the proposed merger will serve PacifiCorp's customers in the public interest.

URP's concern that Condition 19 might prevent the Commission from requiring PacifiCorp to file a rate case before 2004 is unfounded. This condition was discussed and clarified at the hearing. Nothing in Condition 19 prevents the Company from filing a rate case prior to 2004, nor does it prevent the Commission from undertaking an overearnings investigation prior to 2004. What it does provide is that the Commission can require PacifiCorp to file a rate case by March 1, 2004, if the Company's earnings fall outside a zone of reasonableness and that the Company will have the burden of proof in that rate case. This is in contrast to an overearnings investigation, where the burden of proof would rest on the Commission Staff or any party initiating the investigation. This provision is designed to ensure that cost savings are flowed through to customers.

URP's argument that the settlement provides no benefits because the Commission could have adopted the conditions in the [fifth] stipulation without the agreement of the Applicants is specious. Even assuming the correctness of URP's premise – that the Commission has the authority to order *all* of the conditions agreed to by the Applicants – this does not mean there are no net benefits. The benefits derive from the merger, not the Commission's power to impose conditions. In addition, such a rationale has the counter-productive effect of discouraging utility companies from entering into settlement negotiations in the future.

Condition 24, contrary to URP's contention, actually broadens rather than limits the Commission's enforcement authority. It ensures that the Commission can seek penalties directly against ScottishPower as well as PacifiCorp,²¹ thus waiving any defense ScottishPower

²¹ Condition 24 provides that the Commission could choose to seek penalties against PacifiCorp or ScottishPower but would only seek penalties against one of the two companies for the same violation.

may have regarding the Commission's personal or subject matter jurisdiction over ScottishPower to seek penalties for violation of the merger conditions.

In summary, the Commission finds that approval of the merger as modified by the stipulations²² will not harm PacifiCorp's customers, will not result in the degradation of PacifiCorp's service, will not result in higher rates to PacifiCorp's customers, will not weaken PacifiCorp's financial structure, and will not diminish PacifiCorp's utility assets. The Commission further finds that the joint application, as modified by the stipulations, provides net benefits to customers and will serve PacifiCorp's customers in the public interest.

CONCLUSIONS OF LAW

The Public Utility Commission of Oregon has arrived at the following conclusions of law.

PacifiCorp, through its operating subsidiary Pacific Power and Light Company, is engaged in the provision of electric power to customers in portions of Oregon, and as such, is a public utility pursuant to ORS 757.005(1)(a)(A). The Commission has jurisdiction over PacifiCorp pursuant to ORS chapters 756, 757, and 758. ScottishPower is a public limited company registered in Scotland, with multi-utility businesses located in the United Kingdom, and will be in a position to exercise substantial influence over the policies and actions of PacifiCorp as a result of the merger. After consummation of the merger between PacifiCorp and ScottishPower, PacifiCorp will become an indirectly wholly-owned subsidiary of ScottishPower, and as such, an affiliated interest relationship will exist between the two companies, as defined in ORS 757.015.

Based upon its findings of fact, the Commission concludes that the five stipulations executed between PacifiCorp, ScottishPower, and the various signatory parties, should be approved.²³ The Commission concludes that the proposed merger, as modified by the stipulations, along with the merger conditions contained therein, will serve PacifiCorp's customers in the public interest, as required by ORS 757.511. The Commission further concludes that because the proposed merger as modified meets the requirements of ORS 757.511, PacifiCorp should be authorized to issue common stock incidental to the proposed transaction, pursuant to ORS 757.410 and 757.415.

²² This finding is subject to the Commission's conditions upon the oral clarification of Applicants' 50 MW renewable resources commitment, discussed *infra*.

²³ This conclusion is subject to the Commission's conditions upon the oral clarification of Applicants' 50 MW renewable resources commitment, discussed *infra*.

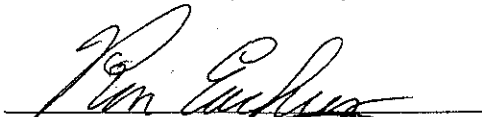
ORDER

IT IS ORDERED that:

1. The Stipulation Relating to Conservation Programs, filed on July 14, 1999, is adopted by the Commission and incorporated by reference in this order.
2. The Stipulation Relating to Low Income Customers, filed on July 14, 1999, is adopted by the Commission and incorporated by reference in this order.
3. The Stipulation Relating to Low Income Weatherization, filed on July 14, 1999, is adopted by the Commission and incorporated by reference in this order.
4. The Stipulation Relating to Performance Standards and Customer Guarantees, filed on July 22, 1999, is adopted by the Commission and incorporated by reference in this order.
5. The Stipulation Supporting Approval of Application of ScottishPower and PacifiCorp Under ORS 757.511, filed on July 27, 1999, is adopted by the Commission and incorporated by reference in this order, subject to the conditions contained in the body of this order.
6. The joint application of PacifiCorp and Scottish Power plc for a Commission order authorizing Scottish Power plc to exercise substantial influence over the policies and actions of PacifiCorp, pursuant to ORS 757.511, is granted.
7. The joint application of PacifiCorp and Scottish Power plc for a Commission order authorizing the issuance of PacifiCorp common stock incidental to the proposed transaction, pursuant to ORS 757.410 and 757.415, is granted.
8. The grant of the joint application in Ordering Paragraphs 6 and 7 above is subject to the merger conditions contained in Exhibit 1 appended to the Stipulation Supporting Approval of Application of ScottishPower and PacifiCorp Under ORS 757.511, filed on July 27, 1999.

9. Nothing in this order shall be considered a finding by the Commission of the value for ratemaking purposes of any of the commitments made by PacifiCorp or Scottish Power plc, including spending commitments for which recovery is expected under PacifiCorp's System Benefits Charge, or as an acquiescence in the value placed upon such commitments by any of the parties to this proceeding. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded in any later proceeding.

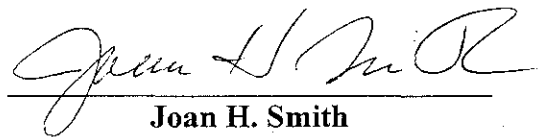
Made, entered, and effective OCT 06 1999







Roger Hamilton
Commissioner



Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070. A party may appeal this order to a court pursuant to ORS 756.580.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 918

In the Matter of the Application of Scottish Power plc and PacifiCorp for an Order Authorizing Scottish Power plc to Exercise Substantial Influence Over the Policies and Actions of PacifiCorp

STIPULATION RELATING TO CONSERVATION PROGRAMS

This Stipulation (“Stipulation”) is entered into among PacifiCorp (“PacifiCorp”), Scottish Power plc (“ScottishPower”), and the intervenor parties to this Docket whose signatures appear at the end of this Stipulation. PacifiCorp, ScottishPower and the signing intervenor parties are together referred to as the “Parties.”

The purpose of this Stipulation is to resolve all issues in this Docket relating to the impact of the merger of PacifiCorp and ScottishPower on PacifiCorp’s conservation programs in the state of Oregon. In this Stipulation, ScottishPower/PacifiCorp agree on actions specifically applicable to the Oregon jurisdiction as a negotiated resolution of conservation issues among the Parties.

1. Terms of Stipulation

The terms and conditions of this Stipulation are set forth below. The Parties agree that the conservation commitments in this Stipulation are beneficial to PacifiCorp’s Oregon customers. The Parties will include this agreement in their prefiled testimony and will support this agreement throughout this Docket.

2. Background

In this Docket, parties have commented on the lack of specific testimony relating to conservation programs to which ScottishPower/PacifiCorp would commit upon approval of the merger. Since that time, representatives of ScottishPower/PacifiCorp have met with various

parties to discuss conservation program issues. ScottishPower/ PacifiCorp explained that the lack of specific testimony relating to conservation programs was due to uncertainty regarding the nature of appropriate conservation programs in PacifiCorp's service territory.

ScottishPower/PacifiCorp recognize that the public purpose spending levels indicated in the "Comprehensive Review of the Northwest Energy System" ("Regional Review") are acknowledged by many parties to be the appropriate spending levels for public purposes, including conservation. ScottishPower/PacifiCorp further understand that the objective of the spending levels specified in the Regional Review was to achieve an appropriate level of cost effective conservation in Oregon, rather than to specify the particular spending level. The Regional Review indicates that it is the cost effective conservation savings that should be achieved. The suggested spending levels are intended to achieve that level of savings; however, the actual spending levels may vary due to particulars of the cost effective level, the characteristics of the utility service territory and the design of the conservation programs.

3. Cost Effective Conservation Program Design

ScottishPower/PacifiCorp will seek to maximize effectiveness from investment in energy conservation. In determining the appropriate cost effective programs, aspects such as technical potential, achievable potential, program design, administration costs and timing of implementation will be considered. Cost effectiveness will be determined according to Oregon Public Utility Commission ("Commission") guidelines. Recovery of cost effective conservation expenditures will be through PacifiCorp's System Benefits Charge.

ScottishPower/PacifiCorp will use the working group concept to assist in establishing a technical data base and in designing, developing, implementing and evaluating specific programs to most effectively achieve cost effective conservation. ScottishPower/PacifiCorp program

managers along with regional experts and the Staff will be invited to participate in the working group. Pilots may be used to ascertain the effectiveness of program design. The working group will review existing conservation tariffs, including low income weatherization, and make recommendations to the Commission for appropriate changes. All programs and revisions must obtain Commission approval prior to implementation.

4. Spending Level

ScottishPower/PacifiCorp commit to funding conservation programs in the state of Oregon at a level of \$6 million per year for a period of three years following the closing of the merger. This funding level is more than double the spending by PacifiCorp in 1998. This funding commitment includes internal and external costs of developing, administering and delivering the conservation programs and the costs of supporting the working group process. A portion of this commitment is the Oregon allocation of the funding for the Northwest Energy Efficiency Alliance as defined below. Low income weatherization will be budgeted at a level not less than \$500,000 per year during the period of this spending commitment.

The conservation program funding specified in this Stipulation is contingent on the design and development of cost effective programs, all costs of which shall be recoverable under PacifiCorp's System Benefits Charge. In the event that the working group determines an appropriate cost effective conservation savings level that would exceed the \$6 million annual funding commitment, ScottishPower/PacifiCorp commit to funding beyond the \$6 million per year level up to the cost effective level determined by the working group to be appropriate, provided the costs are recoverable under PacifiCorp's System Benefits Charge and subject to the following additional conditions:

- a) The maximum funding for conservation will not exceed the level recommended by the Regional Review.
- b) ScottishPower/PacifiCorp may request modifications of the System Benefits Charge cost recovery mechanism to remedy competitive issues that they perceive specific to certain customer classes. These modifications may include such changes as apportionment of cost recovery by customer class to reflect the benefit received or other changes as deemed necessary to address these issues. ScottishPower/PacifiCorp acknowledge that any change in the System Benefits Charge requires Commission approval.
- c) As a result of resource constraints, programs developed by the working group in excess of the \$6 million per year spending level may require a ramp up period before they can be fully implemented.

This three-year commitment and spending level is designed to support conservation programs during the electric industry's transition toward competitive markets. At such time as PacifiCorp is subject to conservation funding requirements pursuant to Oregon or national restructuring legislation, the terms of such legislation will supersede the terms of this Stipulation. If no such conservation funding requirement is implemented by the end of the third year, ScottishPower/PacifiCorp agree to extend the conditions of this Stipulation for an additional two years.

5. Northwest Energy Efficiency Alliance

ScottishPower/PacifiCorp commit to continuing PacifiCorp's Northwest Energy Efficiency Alliance funding for an additional 5 years, or until the dissolution of NEEA whichever is sooner. The funding level is established at \$2 million per year or, if different, the amount determined by the NEEA board of directors to be PacifiCorp's proportionate share of the total NEEA funding

requirements. This funding will represent PacifiCorp's share of Alliance funding for its Oregon, Washington and Idaho jurisdictions. Allocation of the total funding for the Alliance to individual jurisdictions will be based on retail kwh's sold in each jurisdiction in the year preceding the funding. Funding will be for programs identified by the Alliance during the 5-year period but may be paid by ScottishPower/PacifiCorp to the Alliance on a schedule developed by the Alliance to match the Alliance's funding requirements not to exceed an additional 2 years beyond the end of the 5-year period. Execution of this Stipulation by the Staff of the Commission does not constitute an endorsement of the NEEA funding level as PacifiCorp's/ ScottishPower's appropriate funding level or bind the Staff in any respect regarding the ratemaking treatment of the NEEA funding.

6. Timing

Requests for participation in the working group were sent to interested parties on June 4, 1999. ScottishPower/PacifiCorp anticipate that the initial meeting of the working group will occur during the last part of June or early July, 1999. The scope of work recommended by the working group will determine the ultimate timing of the design, initiation and completion of programs. The Parties anticipate that programs identified and developed under this Stipulation will begin implementation during the second quarter of 2000.

7. General Terms and Conditions

a. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation and discussion phases of this Stipulation shall not be admissible as evidence in any proceeding before the Commission or a court.

b. The Parties have negotiated this Stipulation as an integrated document. The Parties recommend that the Commission adopt the Stipulation in its entirety.

c. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and shall support adoption of the Stipulation in testimony and argument submitted in this proceeding. If a hearing is scheduled for presentation of the Stipulation, each Party shall make available a witness in support of the Stipulation. If the Commission rejects all or any material portion of this Stipulation, any Party disadvantaged by such action shall have the right, upon written notice to the Commission and all parties to the proceeding within 15 days of the date of the Commission's Order, to withdraw from this Stipulation. If any Party withdraws from this Stipulation as permitted in this subsection c, 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, cross-examine witnesses and in general put on such case as it deems appropriate.

d. The Parties agree that with respect to the issues covered herein, this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable. The Parties agree that this Stipulation does not represent agreement by the Parties that the entire merger transaction is in the public interest. Furthermore, the Parties agree that this Stipulation does not constitute an endorsement of the merger.

e. ScottishPower/PacifiCorp will not initiate any press releases regarding this Stipulation without consulting with the Parties on the language but reserve the right to include this Stipulation in testimony, respond to inquiries regarding this Stipulation from the press and others, report this Stipulation to other regulatory agencies and provide copies of this Stipulation to third parties on request.

f. 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 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.

g. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document. The execution of this Stipulation by any of the intervenor parties is not conditioned upon execution by any other intervenor party listed on the signature page.

8. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July 13, 1999.

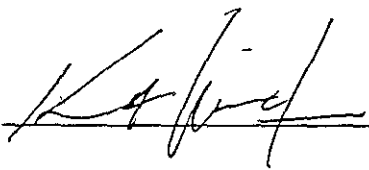
Staff of the Public Utility Commission
of Oregon

By: _____


The City of Portland

By: _____

PacifiCorp

By:  _____

Scottish Power plc

By:  _____

Citizens' Utility Board

NW Energy Coalition

By: _____

By: _____

Renewable Northwest Project

Oregon Energy Coordinators Association

By: _____

By: _____

Natural Resources Defense Council

By: _____

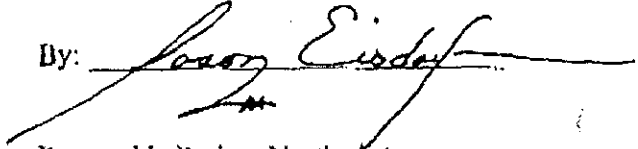
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Citizens' Utility Board

NW Energy Coalition

By: 

By: _____

Renewable Project Northwest

Oregon Energy Coordinators Association

By: _____

By: _____

Natural Resources Defense Council

By: _____

Citizens' Utility Board

NW Energy Coalition

By: _____

By: Alan D. Wein

Renewable Project Northwest

Oregon Energy Coordinators Association

By: _____

By: _____

Natural Resources Defense Council

By: _____

99-00616

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.

g. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document. The execution of this Stipulation by any of the intervenor parties is not conditioned upon execution by any other intervenor party listed on the signature page.

8. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July _____, 1999.

Staff of the Public Utility Commission
of Oregon


PacifiCorp

By: _____

By: _____

The City of Portland

Scottish Power plc

By: 
TERENCE L. THATCHER
DEPUTY CITY ATTORNEY

By: _____

99-00616

Citizens' Utility Board

NW Energy Coalition

By: _____

By: _____

Renewable Northwest Project

Oregon Energy Coordinators Association

By: J. Rachel Shimsak

By: _____

Natural Resources Defense Council

By: _____

813-6060
Brian
Hedman

99-00616

Citizens' Utility Board

NW Energy Coalition

By: _____

By: _____

Renewable Project Northwest

Oregon Energy Coordinators Association

By: _____

By: _____

Natural Resources Defense Council

By: Ralph Cavanagh

99-00616

Citizens' Utility Board

NW Energy Coalition

By: _____

By: _____

Renewable Project Northwest

Oregon Energy Coordinators Association

By: _____

By: Jean E. Lote

Natural Resources Defense Council

By: _____

99-00616

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.

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8. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July 7th, 1999.

Staff of the Public Utility Commission
of Oregon

PacifiCorp

By: Paul A. Graham

By: _____

The City of Portland

Scottish Power plc

By: _____

By: _____

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 918

In the Matter of the Application of Scottish Power plc and PacifiCorp for an Order Authorizing Scottish Power plc to Exercise Substantial Influence Over the Policies and Actions of PacifiCorp

**STIPULATION RELATING TO
LOW INCOME CUSTOMERS**

This Stipulation ("Stipulation") is entered into among PacifiCorp ("PacifiCorp"), Scottish Power plc ("ScottishPower"), and the intervenor parties to this Docket whose signatures appear at the end of this Stipulation. PacifiCorp, ScottishPower and the signing intervenor parties are together referred to as the "Parties."

The purpose of this Stipulation is to resolve all issues in this Docket relating to the impact of the merger of PacifiCorp and ScottishPower on low-income customers. ScottishPower/PacifiCorp have publicly committed to funding certain kinds of programs on a system-wide basis, as set out in direct testimony of Mr. Jack Kelly filed on February 26, 1999. In this Stipulation, ScottishPower/PacifiCorp agree to actions specifically applicable to the Oregon jurisdiction in respect of those testimony commitments, as a negotiated resolution of issues among the Parties.

1. Terms of Stipulation

The terms and conditions of this Stipulation are set forth below. Upon acceptance of these terms and conditions by ScottishPower/PacifiCorp, the Parties agree that the low income commitments in this Stipulation are beneficial to PacifiCorp's Oregon customers. The Parties will include this agreement in their prefiled testimony and will support this agreement throughout this Docket.

2. Low Income Programs

ScottishPower/PacifiCorp commit to working with the appropriate partners (including the Parties to this Stipulation) to identify innovative, cost-effective programs that provide sustained benefit to low income customers through decreasing energy usage and improving their ability to pay current and past electric bills.

To this end, ScottishPower/PacifiCorp will work with the appropriate partners (including the Parties to this Stipulation) to identify programs that may incorporate a range of measures including:

- Energy efficiency advice;
- Budget management & debt counseling;
- Implementation of energy efficiency measures; plus,
- Emergency assistance.

The objective of ScottishPower/PacifiCorp is to deliver real benefit (i.e. reducing the energy used; increasing comfort; lowering the total cost of energy, reducing debt burden and providing emergency energy assistance) to low income and other vulnerable customers by:

- Helping to stimulate the provision of cost-effective programs;
- Identifying the objectives of each program and how achievement of objectives can be measured;
- Identifying the customer groups who will benefit from each individual program;
- Identifying possible sources of funding which can provide additional leverage, including federal LIEAP leveraging funds;
- Identifying the most effective method of funding, managing and delivering each program;
- Establishing pilot projects to prove the effectiveness of appropriate programs;

- Identifying the data required to confirm the effectiveness of pilot programs and whether they should be rolled out; and
- Providing emergency assistance.

3. Spending Levels

Provided the appropriate programs can be identified, developed and financially structured to ensure they maximize cost-effectiveness and meet all regulatory and business requirements, ScottishPower/PacifiCorp commit to funding low income initiatives in the state of Oregon with shareholder funds at a level of \$400,000 per year over and above the \$114,000 spent on similar programs in the state of Oregon in 1998. This funding will be provided for a period of three years following the closing of the merger. This additional funding of \$400,000 together with the funds available for weatherization programs as detailed in the Stipulation Relating to Conservation Programs represents Oregon's allocated share of \$1.5 million in additional funding for low income programs to which ScottishPower/PacifiCorp have committed system-wide. The ScottishPower/PacifiCorp funding commitment includes internal and external costs of developing, administering and delivering the programs and the costs of supporting the advisory process. All Parties will use reasonable efforts to work together and identify appropriate programs for this funding.

4. General Terms and Conditions

a. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation and discussion phases of this Stipulation shall not be admissible as evidence in any proceeding before the Commission or a court.

b. The Parties have negotiated this Stipulation as an integrated document. The Parties recommend that the Commission adopt the Stipulation in its entirety.

c. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and shall support adoption of the Stipulation in testimony and argument submitted in this proceeding. If a hearing is scheduled for presentation of the Stipulation, each Party shall make available a witness in support of the Stipulation.

d. The Parties agree that with respect to the issues covered herein, this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable. The Parties agree that this Stipulation does not represent agreement by the Parties that the entire merger transaction is in the public interest. Furthermore, the Parties agree that this Stipulation does not constitute an endorsement of the merger.

e. ScottishPower/PacifiCorp will not initiate any press releases regarding this Stipulation without consulting with the Parties on the language but reserve the right to include this Stipulation in testimony, respond to inquiries regarding this Stipulation from the press and others, report this Stipulation to other regulatory agencies and provide copies of this Stipulation to third parties on request.

f. 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 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.

g. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document. The execution of this Stipulation by any of the intervenor parties is not conditioned upon execution by any other intervenor party listed on the signature page.

5. Commission Approval of Application/Closing of Merger

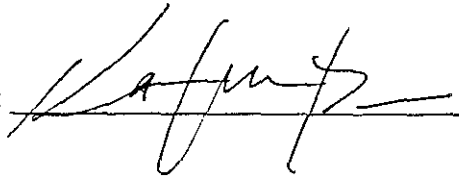
The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July 13, 1999.

The Oregon Housing and
Community Services Department

PacifiCorp


By: _____

By:  _____

Community Action Directors of Oregon

ScottishPower

By: _____

By:  _____

Oregon Energy Coordinators Association

Oregon HEAT

By: _____

By: _____

Citizens' Utility Board

By: _____

99-00616

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Dated: July ____, 1999.

The Oregon Housing and
Community Services Department

By: *Bob Lapina*

Community Action Directors of Oregon

By: _____

Oregon Energy Coordinators Association

By: _____

Citizens' Utility Board

By: _____

PacifiCorp

By: _____

ScottishPower

By: _____

Oregon HEAT

By: _____

SENT BY:

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99-00616

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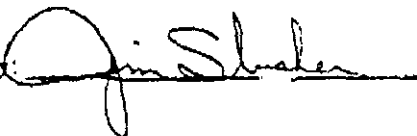
5. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacificCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacificCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacificCorp.

Dated: July _____, 1999.

The Oregon Housing and
Community Services Department

PacificCorp

By: 

By: _____

Community Action Directors of Oregon

ScottishPower

By: _____

By: _____

Oregon Energy Coordinators Association

Oregon HEAT

By: _____

By: _____

Citizens' Utility Board

By: _____

Page 5. STIPULATION RELATING TO LOW INCOME CUSTOMERS

99-00616

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The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: June _____, 1999

The Oregon Housing and
Community Services Department

PacifiCorp

By: _____

By: _____

Community Action Directors of Oregon

ScottishPower

By: Joan E. Cote

By: _____

Oregon Energy Coordinators Association

Oregon HEAT

By: _____

By: _____

SENT BY:

7- 2-99 ; 2:58PM ; ECONOMIC REGULATION-

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99-00616

g. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document. The execution of this Stipulation by any of the intervenor parties is not conditioned upon execution by any other intervenor party listed on the signature page.

5. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July _____, 1999.

The Oregon Housing and
Community Services Department

PacifiCorp

By: _____

By: _____

Community Action Directors of Oregon

ScottishPower

By: _____

By: _____

Oregon Energy Coordinators Association

Oregon HEAT

By: _____

By: _____

Citizens' Utility Board

By:  _____

99-00616

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The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July _____, 1999.

The Oregon Housing and
Community Services Department

PacifiCorp

By: _____

By: _____

Community Action Directors of Oregon

ScottishPower

By: _____

By: _____

Oregon Energy Coordinators Association

Oregon HEAT

By: _____

By:  _____

Citizens' Utility Board

By: _____

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The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July _____, 1999.

The Oregon Housing and
Community Services Department

PacifiCorp

By: _____

By: _____

Community Action Directors of Oregon

ScottishPower

By: _____

By: _____

Oregon Energy Coordinators Association

Oregon HEAT

By: _____

By: _____

Citizens' Utility Board

By: _____



BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 918

In the Matter of the Application of Scottish Power plc and PacifiCorp for an Order Authorizing Scottish Power plc to Exercise Substantial Influence Over the Policies and Actions of PacifiCorp

**STIPULATION RELATING TO
LOW INCOME WEATHERIZATION**

This Stipulation ("Stipulation") is entered into among PacifiCorp ("PacifiCorp"), Scottish Power plc ("ScottishPower"), and the Oregon Energy Coordinators Association ("OECA") (together, the "Parties").

The purpose of this Stipulation is to specify a working process among the Parties to develop recommended changes to PacifiCorp's current low income weatherization tariff on file with the Public Utility Commission of Oregon ("Commission").

1. Terms of Stipulation

The terms and conditions of this Stipulation are set forth below. Upon acceptance of these terms and conditions by ScottishPower/PacifiCorp, the Parties agree that the process outlined below resolves OECA's separate concerns related to the Stipulation Relating to Low Income Customers and the Stipulation Relating to Conservation Programs in this Docket and enables OECA to sign the Stipulation Relating to Low Income Customers and the Stipulation Relating to Conservation Programs. The Parties will include this agreement in their prefiled testimony and will support this agreement throughout this Docket.

2. Low Income Weatherization

ScottishPower/PacifiCorp will file with the Public Utility Commission of Oregon ("Commission"), within 60 days after the closing of the merger, a revised tariff schedule that

eliminates the \$1,000 funding cap for weatherization measures determined to be cost effective by a DOE approved weatherization audit and allows for weatherization in houses previously weatherized, provided that the house was weatherized prior to the use of the DOE approved WXOR audit and subject to the condition that only measures not previously installed will be funded. In addition, ScottishPower/PacifiCorp commit to working with OECA to develop further recommendations for changes to PacifiCorp's existing low income weatherization tariff. ScottishPower/PacifiCorp acknowledge that OECA has put forth the following additional recommended changes:

- 1) Reimbursement for furnace/heating system repair and/or replacement and baseload energy efficiency improvements (i.e. water heater, refrigerator, lighting repair or replacement).
- 2) Increase in ScottishPower/PacifiCorp matching funds from 50% of the cost of cost effective measures to 75% of the cost of cost effective measures.

OECA acknowledges that all changes must be approved by the Commission.

ScottishPower/PacifiCorp propose that the above recommendations become the basis for discussion of the proposed additional changes. In the development of the additional changes, ScottishPower/PacifiCorp believe it is essential to consider the following:

- 1) Effective utilization of federal, state or other matching funds.
- 2) Maximization of the number of PacifiCorp service territory low income homes weatherized.
- 3) Changes in weatherization technologies and/or historical weatherization measures installed.
- 4) Cost effectiveness criteria required for Commission approval.

3. General Terms and Conditions

a. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation and discussion phases of this Stipulation shall not be admissible as evidence in any proceeding before the Commission or a court.

b. The Parties have negotiated this Stipulation as an integrated document. The Parties recommend that the Commission adopt the Stipulation in its entirety.

c. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and shall support adoption of the Stipulation in testimony and argument submitted in this proceeding. If a hearing is scheduled for presentation of the Stipulation, each Party shall make available a witness in support of the Stipulation. If the Commission rejects all or any material portion of this Stipulation, any Party disadvantaged by such action shall have the right, upon written notice to the Commission and all parties to the proceeding within 15 days of the date of the Commission's Order, to withdraw from this Stipulation. If any Party withdraws from this Stipulation as permitted in this subsection c, 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, cross-examine witnesses and in general put on such case as it deems appropriate.

d. The Parties agree that with respect to the issues covered herein, this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable. The Parties agree that this Stipulation does not represent agreement by the Parties that the entire merger transaction is in the public interest. Furthermore, the Parties agree that this Stipulation does not constitute an endorsement of the merger.

e. ScottishPower/PacifiCorp will not initiate any press releases regarding this Stipulation without consulting with OECA on the language but reserve the right to include this Stipulation in testimony, respond to inquiries regarding this Stipulation from the press and others, report this Stipulation to other regulatory agencies and provide copies of this Stipulation to third parties on request.

f. 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 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.

4. Commission Approval of Application/Closing of Merger

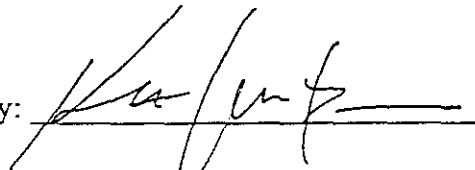
The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July 13th, 1999.

Oregon Energy Coordinators Association

PacifiCorp

By: _____

By:  _____

Community Action Directors of Oregon

ScottishPower

By: _____

By: 

The Oregon Housing and
Community Services Department

By: _____

99-00616

e. ScottishPower/PacifiCorp will not initiate any press releases regarding this Stipulation without consulting with OECA on the language but reserve the right to include this Stipulation in testimony, respond to inquiries regarding this Stipulation from the press and others, report this Stipulation to other regulatory agencies and provide copies of this Stipulation to third parties on request.

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4. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: July ____, 1999.

Oregon Energy Coordinators Association

PacifiCorp

By: Joan E. Gte

By: _____

report this Stipulation to other regulatory agencies and provide copies of this Stipulation to third parties on request.

f. 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 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.

4. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: June _____, 1999

Oregon Energy Coordinators Association

PacifiCorp

By: Joan E. Cote

By: _____

ScottishPower

Alan D. Lewis

By: _____

SENT BY

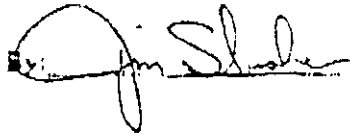
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815412865141: 5/ 6

99-00616

Community Action Directors of Oregon

ScottishPower

By:  _____

By: _____

The Oregon Housing and
Community Services Department

By: _____

99-00616

Community Action Directors of Oregon

ScottishPower

By: _____

By: _____

The Oregon Housing and
Community Services Department

By: *Pat Levine*

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON
UM 918

In the Matter of the Application of)	
Scottish Power plc for an Order Authorizing)	Stipulation Relating to
Scottish Power plc to Exercise Substantial)	Performance Standards
Influence Over the Policies and Actions)	and Customer Guarantees
Of PacifiCorp)	

This Stipulation ("Stipulation") is entered into among PacifiCorp, Scottish Power plc ("ScottishPower") and the Staff of the Public Utility Commission of Oregon ("Staff") (together, the "Parties").

The purpose of this Stipulation is to resolve all issues in this Docket between ScottishPower/PacifiCorp and the Staff relating to the Network Performance Standards, Customer Service Performance Standards and Customer Guarantees proposed in the prefiled testimony of ScottishPower/PacifiCorp.

ScottishPower/ PacifiCorp have proposed to implement Network Performance Standards in the following five areas: System Availability (SAIDI), System Reliability (SAIFI), Momentary Interruptions (MAIFI), Worst Performing Circuits, and Supply Restoration. At the request of the Staff, ScottishPower/PacifiCorp agree to modify PacifiCorp's Alternative Form of Regulation ("AFOR") in Oregon (*see* Order No. 98-191, OPUC Docket UE 94) as described in this Stipulation as an alternative to implementing these five Network Performance Standards.

ScottishPower/PacifiCorp have also proposed to implement Customer Service Performance Standards and Customer Guarantees as part of their proposal for improved customer service. ScottishPower/ PacifiCorp agree to modify the Customer Guarantees as specified in this Stipulation in order to resolve issues raised by the Staff. The Staff does not require any modifications to the Customer Service Performance Standards.

1. Terms of Stipulation

The terms and conditions of this Stipulation are set forth below. Upon acceptance of these terms and conditions by ScottishPower/PacifiCorp, the Staff agrees that the proposed modifications to PacifiCorp's AFOR, the ScottishPower Customer Service Performance Standards as proposed in prefiled testimony and the ScottishPower Customer Guarantees as modified by this Stipulation are beneficial to PacifiCorp's Oregon customers. The Staff will include this agreement in its prefiled testimony and will support this agreement throughout this Docket.

2. Modification of AFOR

ScottishPower/PacifiCorp agree to modify PacifiCorp's AFOR as specified in Attachment A. The purpose of these modifications is to incorporate the benefits of Network Performance Standards proposed by ScottishPower/PacifiCorp in their prefiled testimony in this Docket into the framework of the existing AFOR. In consideration of these modifications to the AFOR and Staff's entering into this Stipulation, ScottishPower/PacifiCorp and the Staff agree that the following Network Performance Standards shall be withdrawn and not included in ScottishPower's proposals in this Docket: System Availability (PS 1); System Reliability (PS 2); Momentary Interruptions (PS 3); Worst Performing Circuits (PS 4); and Supply Restoration (PS 5). See also Section 4.d of this Stipulation regarding Customer Guarantee 8.

3. Modifications to Customer Service Performance Standards

The Staff agrees that no modifications to ScottishPower's proposed Customer Service Performance Standards (PS 6 and PS 7) are required.

4. Modifications to Customer Guarantees

ScottishPower/PacifiCorp agree to the following modifications to ScottishPower's Customer Guarantee proposal:

a. Customer Guarantee 1 is modified to incorporate the following additional language:

"As part of the two-year review of performance standards, ScottishPower agrees to reduce the restoration time to less than 24 hours using accurate data available at that time. The revised standard will be subject to Commission approval."

b. Customer Guarantee 5 is replaced by the following:

"ScottishPower will answer most questions on bills at the time of the initial phone call from the customer. For billing questions that need more investigation, ScottishPower will investigate and respond to the inquiry as soon as possible. If ScottishPower has not investigated and responded to the customer within 10 business days, we will automatically pay the customer \$50."

c. Customer Guarantee 6 is replaced by the following:

"Tests of Meters and Related Equipment: ScottishPower will conduct and provide the results of meter tests and verification to customers within 15 business days, or automatically pay the customer \$50."

d. Customer Guarantee 8 is supplemented as provided in Attachment A.

e. The following condition is added to ScottishPower's Customer Guarantee proposal:

"ScottishPower agrees to commit to a review with Commission Staff of all customer guarantees within two years after closing of the merger."

f. The following condition is added to ScottishPower's Customer Guarantee proposal:

"ScottishPower agrees to report to the Commission its performance against the customer guarantees on a quarterly basis beginning with the first full calendar quarter after closing of the merger."

5. General Terms and Conditions

a. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation and discussion phases of this Stipulation shall not be admissible as evidence in any proceeding before the Commission or a court.

b. The Parties have negotiated this Stipulation as an integrated document. The parties recommend that the Commission adopt the Stipulation in its entirety.

c. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for acceptance, and shall support adoption of the Stipulation in testimony and argument submitted in this proceeding. If a hearing is scheduled for presentation of the Stipulation, each Party shall make available a witness in support of the Stipulation. If the Commission rejects all or any material portion of this Stipulation or imposes additional material conditions in approving the Application, any Party disadvantaged by such action shall have the right, upon written notice to the Commission and all parties to the proceeding within 15 days of the date of the Commission's Order, to withdraw from this Stipulation. If any Party withdraws from this Stipulation as permitted in this subsection c, 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, cross-examine witnesses and in general to put on such case as it deems appropriate.

d. The Parties agree that with respect to the issues covered herein, this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable.

e. 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 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.

6. Commission Approval of Application/Closing of Merger

The obligations of ScottishPower/PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this Docket on terms and conditions acceptable to ScottishPower and PacifiCorp, in their sole discretion, and the closing of the merger transaction between ScottishPower and PacifiCorp.

Dated: June 15, 1999

Staff of the Public Utility Commission of
Oregon

By: Paul D. Graham

PacifiCorp

By: James L. Sell

Scottish Power plc

By: A. Riche



ScottishPower

Principles for Agreement with Oregon PUC Staff

The general purpose of this stipulation is to incorporate the benefits of proposals made by ScottishPower as part of the Oregon merger proceedings (UM 918), into the framework of the existing Alternative Form of Regulation (AFOR) agreement with PacifiCorp (UE 94, see OPUC Order 98-191).

1. ScottishPower agrees that the existing Service Quality Measures (SQM), which are part of PacifiCorp's AFOR, be extended through Dec.31, 2009. Specifically, a modified SQM will be recommended for adoption by Commission Order, with a 10-year term beginning with year 2000.
2. ScottishPower agrees that its merger commitment to achieve a 10% improvement by 2005 in SAIDI and SAIFI should be taken into account by the Commission in the establishment of Revenue Requirement Reduction (RRR) lines 1 and 2 for years 2005 through the end of the SQM term. The adjustment of the RRR lines shall also separately take into account any long-term improvements that would have been achieved absent the merger. Items such as the improved vegetation management program (initiated in 1998) and improvements attributable to implementation of OAR 860-023-0080 through 0160 (effective 1/1/98) shall be included in this consideration.
3. ScottishPower commits to developing improved methods to measure MAIFI and MAIFIE for individual customers. ScottishPower and Oregon Public Utility Commission Staff (Staff) recognise the technical difficulty in achieving this objective, and will co-operate to ensure that cost effective measurement is achieved. ScottishPower will develop a program, which will make use of field trials both in the US and UK, and present their recommendations on how best to proceed, including associated implementation costs, to Staff by December 31st 2001. The program and costs will be agreed with Staff prior to implementation. The resulting implementation will be completed by year-end 2004, unless a mutually agreeable alternate deadline is established.
4. A new SQM titled "Service Restoration Indicator" or SRI (R4) will be included in the modified AFOR SQMs, and will be organized and detailed parallel to the R1 and R2 measures. ScottishPower will report annually on the percentage of customers affected by supply interruptions who are restored to service in under 3 hours, excluding extreme events claimed under AFOR rules. ScottishPower agrees to review the results with the Staff during a trial two-year (non-penalty)

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period. After the trial period, the RRR1 line shall be set consistent with AFOR SQM principles and ScottishPower's merger commitment to achieve 80% restoration within 3 hours included in Commission considerations.

5. ScottishPower agrees to modify the AFOR reporting requirements for metering as specified in X2, as detailed in Attachment A-1.
6. ScottishPower confirms that they will ensure that Staff is kept informed of material changes to policy covered by Standards and Standard Practices of the X2 measure of the SQM previous to their implementation, and that copies of amendments are provided to ensure service manuals are consistently maintained up-to-date with the Commission. This will include Power Quality Standards and Practices developed to provide a framework to implement ScottishPower's Customer Guarantee 8.
7. As part of Measure X3 for Special Programs, ScottishPower will provide an Annual Report on Electric Reliability, which will comply with the reporting requirements of Oregon Administrative Rules 860-023-0080 through 0160, and provide information on commitments and achievements on improving service to 5 targeted underperforming circuits per year.
8. ScottishPower will support implementation of the National Joint Utility Notification System (NJUNS) on a statewide basis in Oregon. To the degree that it is reasonable and possible, the deployment of this interutility communication system will be accomplished within a two-year period (by year-end 2001).

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Proposal-6-11.doc

The X2.F.3 Section in the UE-94 AFOR Service Quality Measures should be changed to read: (The bolded and underlined language indicates language changes).

3. Meters

Company shall comply with meter accuracy requirements and testing schedules required by OAR 860-023-0015 and approved by the Commission.

Company shall provide an annual Oregon certification report and presentation to the PUC Staff by May 1 about the previous year's metering program. The certification report shall include information about metering inspections for proper installations, safety, security, and energy diversion, and meter accuracy testing for Oregon meters. Further, the report shall contain summary information on metering program accomplishments, issues, trends, failed meter groups and types, meter repairs and retirements, program modifications, and new applied technologies. Additionally, the certification report shall include the number of Oregon meter tests, inspections and change-outs planned for the current year.

All electric meters and associated equipment and utilization shall comply with applicable requirements of the National Electrical Safety Code (NESC), National Electric Code (NEC), American National Standards Institute (ANSI), and other standards adopted and published by the Commission. Additionally such equipment shall comply with the Oregon Electric Service Requirements Manual (published jointly by PacifiCorp and Portland General Electric), the Electric Utility Service Equipment Requirements Committee (EUSERC), and the Company's Meter Standards Manual.

- a. Company Quality Control: Random sample by supervisory personnel or their designee to ensure uniform results and adherence to the plan and accuracy of data.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 918

In the Matter of the Application of Scottish Power plc and PacifiCorp for an Order Authorizing Scottish Power plc to Exercise Substantial Influence Over the Policies and Actions of PacifiCorp

STIPULATION SUPPORTING APPROVAL OF APPLICATION OF SCOTTISHPOWER AND PACIFICORP UNDER ORS 757.511

I. Parties.

This Stipulation is entered into among PacifiCorp, ScottishPower, the Staff of the Public Utility Commission of Oregon ("Staff") and the Citizens' Utility Board ("CUB") (collectively "Parties"). This Stipulation will be made available to other parties in this Docket, who may become Parties by signing and filing a copy of this Stipulation.

II. Purpose.

The purpose of this Stipulation is to resolve all outstanding issues among the Parties connected to the Application filed by ScottishPower and PacifiCorp (collectively "Applicants") under ORS 757.511, 757.410 and 757.415. Specifically, this Stipulation: (1) memorializes the conditions relating to the proposed transaction to which Applicants have agreed; (2) reflects the Parties' agreement that, based upon these conditions, Applicants have satisfied the statutory standard for approval of the proposed transaction under ORS 757.511; and (3) recommends that the Commission approve the Application, incorporating the conditions included in the Stipulation.

III. Background.

On December 31, 1998, Applicants filed their Application for an order authorizing ScottishPower to exercise substantial influence over the policies and actions of PacifiCorp and

Page

1- STIPULATION SUPPORTING APPROVAL OF APPLICATION OF SCOTTISHPOWER AND PACIFICORP UNDER ORS 757.511

1 approving the issuance of PacifiCorp common stock incidental to the proposed transaction. On
2 March 30, 1999, Applicants filed an amendment to their Application, attaching their Restated
3 Merger Agreement.

4 This case has included extensive discovery practice, five separate rounds of
5 testimony, a two-day public workshop, four public comment meetings and settlement
6 conferences on May 6-7, June 7-8, 15, 17 and July 16, 19 and 23, 1999.

8 Applicants have entered into four other Stipulations in this case, addressing service
9 performance and customer guarantees, conservation, low-income customers and low-income
10 weatherization. This Stipulation is designed to be complementary to these existing Stipulations
11 and does not replace or supersede them in any way.

12 IV. Agreement.

13 1. The Parties agree that the conditions listed in Exhibit 1 to this Stipulation should be
14 incorporated in a final Commission Order approving the Application.

16 2. The Parties agree that the conditions listed in Exhibit 1 to this Stipulation as a whole
17 constitute benefits of the proposed transaction and that the proposed transaction with these
18 conditions will serve PacifiCorp's customers in the public interest. The Parties recommend
19 that the Commission adopt this Stipulation in its entirety and approve the Application.

21 3. Applicants have sought and will continue to seek expedited approval of their
22 Application. Staff agrees to support Applicants in obtaining expedited approval of their
23 application; CUB agrees not to oppose these efforts.

25 4. The Parties agree that this Stipulation represents a compromise in the positions of the
26 Parties. As such, conduct, statements and documents disclosed in the negotiation and

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2- STIPULATION SUPPORTING APPROVAL OF APPLICATION OF SCOTTISHPOWER
AND PACIFICORP UNDER ORS 757.511

1 discussion phases of this Stipulation shall not be admissible as evidence in any proceeding
2 before the Commission or a court. No Party shall be bound by any position stated in the
3 negotiations, except to the extent expressly stated in this Stipulation.

4 5. The Parties have negotiated this Stipulation as an integrated document. If the
5 Commission rejects all or any material part of this Stipulation or imposes additional material
6 conditions in approving the Application, any Party disadvantaged by such action shall have the
7 right, upon written notice to the Commission and all parties to the proceeding within 15
8 business days of the Commission's Order, to withdraw from this Stipulation. If any Party
9 withdraws from this Stipulation on this basis, no Party shall be bound by the terms of this
10 Stipulation and each Party shall be entitled to seek reconsideration of the Commission Order,
11 file any testimony it chooses, cross-examine witnesses and in general to put on such case as it
12 deems appropriate.
13

14 6. This Stipulation will be entered into the record as evidence pursuant to
15 OAR 860-014-0085. The Parties shall cooperate in this submission and shall support adoption
16 of the Stipulation in testimony and argument submitted in this proceeding and any appeal.
17 ScottishPower, PacifiCorp and Staff shall make available a witness in support of this
18 Stipulation. The Parties agree to waive cross-examination of one another at the hearing.
19

20 7. Execution of this Stipulation shall not constitute an acknowledgement by any Party
21 of the validity or invalidity of any particular method, theory, or principle of regulation, and no
22 Party shall be deemed to have agreed that any method, theory or principle of regulation
23 employed in arriving at this Stipulation is appropriate for resolving any issue in any other
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3- STIPULATION SUPPORTING APPROVAL OF APPLICATION OF SCOTTISHPOWER
AND PACIFICORP UNDER ORS 757.511

1 proceeding. No findings of fact or conclusions of law other than those stated herein shall be
2 deemed to be implicit in this Stipulation.

3 8. This Stipulation may be executed in counterparts and each signed counterpart shall
4 constitute an original document.


5 9. The obligations of Applicants under this Stipulation are subject to the Commission's
6 approval of the Application in this case on terms and conditions acceptable to Applicants and
7 the closing of the transaction between Applicants.
8

9 Dated this 26th day of July 1999.

10
11 Staff of the Public Utility Commission
12 of Oregon

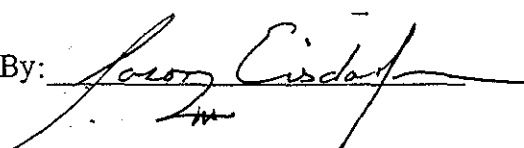
Scottish Power plc

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15 By: _____

By:  _____

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17 Citizens' Utility Board

PacifiCorp

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4- STIPULATION SUPPORTING APPROVAL OF APPLICATION OF SCOTTISHPOWER AND PACIFICORP UNDER ORS 757.511

1 proceeding. No findings of fact or conclusions of law other than those stated herein shall be
2 deemed to be implicit in this Stipulation.

3 8. This Stipulation may be executed in counterparts and each signed counterpart shall
4 constitute an original document.

5 9. The obligations of Applicants under this Stipulation are subject to the Commission's
6 approval of the Application in this case on terms and conditions acceptable to Applicants and
7 the closing of the transaction between Applicants.
8

9 Dated this 26th day of July 1999.

10
11 Staff of the Public Utility Commission
12 of Oregon

Scottish Power plc

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14 By: Paul D. Graham

By: Law Richards

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17 Citizens' Utility Board

PacifiCorp

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20 By: George Cindorf

By: Kaput

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4- STIPULATION SUPPORTING APPROVAL OF APPLICATION OF SCOTTISHPOWER
AND PACIFICORP UNDER ORS 757.511

UM 918

SCOTTISHPOWER/PACIFICORP MERGER CONDITIONS

1. ScottishPower and PacifiCorp shall provide the Commission access to all books of account, as well as all documents, data and records of their affiliated interests, which pertain to transactions between PacifiCorp and all its affiliated interests.
2. PacifiCorp shall maintain its own accounting system, separate from ScottishPower's accounting system. All PacifiCorp financial books and records shall be kept at PacifiCorp headquarters in Portland, Oregon.
3. ScottishPower and PacifiCorp shall exclude all costs of completing the merger from PacifiCorp's utility accounts. Within 90 days following the merger completion, ScottishPower will provide a preliminary accounting of these costs. Further, ScottishPower agrees to provide the Commission a final accounting of these costs, within thirty days following the accounting close of the merger.
4. The Commission or its agents may audit the accounting records of ScottishPower and its unregulated subsidiaries that are the bases for charges to PacifiCorp, to determine the reasonableness of allocation factors used by ScottishPower to assign costs to PacifiCorp and amounts subject to allocation or direct charges. ScottishPower agrees to cooperate fully with such Commission audits.
5. PacifiCorp shall maintain its own debt and, if outstanding, preferred stock ratings.
6. PacifiCorp shall not make any distribution to ScottishPower that will reduce PacifiCorp's common equity capital below the corresponding threshold percent of PacifiCorp's total capital without Commission approval, as detailed in the following table. PacifiCorp's total capital is defined as common equity, preferred equity and long-term debt. Long-term debt is defined as debt with a term of one year or more.

<u>Year</u>	<u>Threshold Common Equity Percent</u>
After December 31, 1999	35%
After December 31, 2000	36%
After December 31, 2001	37%
After December 31, 2002	38%
After December 31, 2003	39%

After December 31, 2004, PacifiCorp shall not make any distribution to ScottishPower that will reduce PacifiCorp's common equity capital below 40 percent of total PacifiCorp capital without Commission approval. The Commission Staff and PacifiCorp may reexamine this minimum common equity percentage as financial conditions or accounting standards change, and may request that it be adjusted.

7. ScottishPower and PacifiCorp agree that in future Commission proceedings, they will not seek a higher cost of capital than that which PacifiCorp would have been authorized on its own. Specifically, no capital financing costs (either debt or equity) should increase by virtue of the fact that PacifiCorp was merged with ScottishPower.
8. ScottishPower and PacifiCorp agree to the following provisions with respect to information requests and resolution of disputes related to information requests:
 - a. PacifiCorp and ScottishPower shall provide Staff, upon request, access to books and records of PacifiCorp and ScottishPower that are reasonably calculated to lead to information relating to PacifiCorp, including without limitation, Board of Directors'

Minutes. Nothing in this condition shall be deemed to be a waiver either of ScottishPower's or PacifiCorp's right to seek protection of the information pursuant to a protective order issued by the Commission or a waiver of ScottishPower's or PacifiCorp's right to object to production of information on the grounds that the request is overbroad, unduly burdensome or outside the scope of the Commission's regulatory jurisdiction.

- b. In the event of a dispute between Staff and ScottishPower regarding a Staff request for books and records or minutes, the parties agree that an Administrative Law Judge (ALJ) of the Commission shall resolve the dispute. The ALJ shall review the requested documents in camera and shall hear the arguments of Staff and ScottishPower as to the obligation to provide access. In resolving the dispute, the ALJ shall decide whether the requested documents are reasonably calculated to lead to the discovery of admissible evidence. The ALJ shall use this standard whether or not Staff is making the request in connection with an open docket. When ScottishPower submits any document for an in camera inspection, it may request that the Commission treat the documents as exempt from disclosure under Oregon's Public Records Law. If ScottishPower makes such request, it shall specify to the ALJ the provisions of the Public Records Law that apply. If the ALJ, on behalf of the Commission, determines that the documents are exempt from disclosure, then the Commission shall, in the event it receives a request for documents under the Public Records Law, assert the appropriate provision(s) as a basis for not disclosing the documents.
9. Unless such a disclosure is unlawful, ScottishPower shall notify the Commission:
 - a. Its intention to transfer more than 5 percent of PacifiCorp's retained earnings to ScottishPower over a six-month period, at least thirty days before such a transfer is effected.
 - b. Its intention to declare a special cash dividend from PacifiCorp, at least thirty days before declaring such dividend.
 - c. Its most recent quarterly stock cash dividend payment from PacifiCorp, within thirty days after declaring such dividend.
10. ScottishPower/PacifiCorp guarantee that the customers of PacifiCorp shall be held harmless if the merger between ScottishPower and PacifiCorp results in a higher revenue requirement for PacifiCorp than if the merger had not occurred. This includes, but is not limited to, costs associated with currency exchange agreements not otherwise authorized by the Commission. However, this hold harmless provision shall not apply to incremental costs associated with cost-effective investments in renewables and conservation subsequently approved by the Commission.
11. ScottishPower shall not subsidize its activities by allocating to or directly charging PacifiCorp expenses not authorized by the Commission to be so allocated or directly charged. -
12. On June 18, 1999, ScottishPower/PacifiCorp filed a proposed cost allocation methodology for the allocation of corporate and affiliate investments, expenses, and overheads. On or about October 1999, PacifiCorp/ScottishPower shall schedule a conference/meeting with state and other interested regulators to discuss the proposed corporate and affiliate cost allocation methodology. The final methodology will comply with the following principles:
 - a. ScottishPower shall establish and maintain an accounting process for directly assigning or allocating costs incurred by ScottishPower to PacifiCorp's operations. The cost categories subject to allocation to PacifiCorp from ScottishPower shall be limited to common corporate functions and ScottishPower must demonstrate a basis for recovery of the costs.
 - b. Costs will be directly assigned to specific subsidiaries whenever possible and shared or indirect costs shall be allocated based upon primary cost-causation factors.

- c. ScottishPower shall have in place a time profile system adequate to support the allocation of executives' costs to significant projects. These time profiles will be reviewed, at a minimum, on a semi-annual basis or when significant changes occur.
 - d. An audit trail shall be maintained such that all costs subject to allocation and the basis for application of the allocation methodology can be specifically identified, particularly with respect to their origin. In addition, the audit trail must be adequately supported by appropriate documentation.
 - e. Any corporate cost allocation methodology used for rate setting in Oregon, and subsequent changes thereto, must be approved by the Oregon Commission.
 - f. PacifiCorp's total corporate costs will not rise as a result of the merger. Through December 31, 2004, ScottishPower/PacifiCorp agree that the corporate costs allocated to PacifiCorp (in U.S. dollars) will not be greater than 1999 costs for comparable PacifiCorp functions escalated for inflation using the GDP-PI.
13. Except as modified by Commission rule or order, if PacifiCorp subsequently has affiliates that provide wholesale energy services within the WSCC as currently defined, PacifiCorp shall file detailed semi-annual reports with the Commission regarding transactions between PacifiCorp and any of its affiliates involving: a.) Electric power exchanges and sales, and b.) Competitive ancillary electric services sales. Commission staff, ScottishPower and PacifiCorp will promptly develop a report acceptable to the Commission. The reports shall be filed semi-annually, within 45 days of the close of each six-month period, beginning with the first year after closing of the merger.
14. If PacifiCorp, either directly or through an affiliate, intends to market generation services or ancillary services to retail customers within PacifiCorp's Oregon service territory in competition with other providers, PacifiCorp shall notify the Commission prior to marketing such services for the purpose of establishing conditions to preclude anti-competitive behavior. Such conditions shall be similar to those set forth in the UM 814, Order No. 97-196, except as modified by the Commission.
15. Within 45 days of the end of each calendar six-month period for 2000, 2001, and 2002, beginning with the first full six months after completion of the merger, PacifiCorp shall file detailed semi-annual reports with the Commission regarding: a.) Employee transfers, permanent and temporary, between PacifiCorp and ScottishPower; and b.) Consulting and training activities conducted by both PacifiCorp and ScottishPower personnel for the other entity. Temporary is defined as more than three months but less than one year for purposes of this condition, and less than 50 percent of time in aggregate over any two-year period.
16. ScottishPower and PacifiCorp shall adopt and implement Network Performance Standards, Customer Service Performance Standards and Customer Guarantees, as fully described in the executed June 15, 1999, Stipulation Relating to Performance Standards and Customer Guarantees (Exhibit Staff/801, Thornton-Riordan/1-8) and those included in the Appendix to this document, to ensure that PacifiCorp's current levels of service quality are maintained or improved. The customer guarantee payments and any service quality penalties, shall not be reflected in company results of operations and/or any rate review. In addition, any company customer guarantee payment shall include a statement that acceptance of the payment does not waive any rights or claims against PacifiCorp.
17. ScottishPower and PacifiCorp shall adopt and implement all commitments contained in the "Stipulation Relating to Conservation Programs", as executed on July 7, 1999 (Exhibit Staff/801, Thornton-Riordan/34-41).

18. ScottishPower and PacifiCorp commit to provide a guaranteed annual merger credit to Oregon customers for four years. The amount of the credit shall be \$9 million for years 2001, 2002 and 2003 and \$12 million for 2004. ScottishPower and PacifiCorp also commit to provide an additional credit of \$3 million per year for the same four year period to reflect the revenue requirement impact of the investments necessary to implement the service performance standards and customer guarantees referenced in Conditions 16 and 23. In years 2003 and 2004, the \$3 million credit will be assigned to PacifiCorp's distribution function. The total credit in years 2001-2003 will be \$12 million and the total credit in 2004 will be \$15 million. Payments to customers associated with the merger credit shall not be reflected in company results of operations and/or any rate review.

For years 2001 and 2002, ScottishPower and PacifiCorp must provide the full \$12 million credit, irrespective of whether actual merger related cost savings are reflected in rates or whether disaggregation occurs. In years 2003 and 2004, respectively, ScottishPower and PacifiCorp may reduce or offset the \$9 million and \$12 million merger credit to the extent that cost reductions related to the merger are reflected in rates. The \$3 million credit in years 2003 and 2004 may not be offset or reduced in this manner. The Commission shall determine the allocation of the merger credit among customers at the time of the implementation of the credit. The dates set forth above assume that the transaction will close in 1999. If closing is delayed, ScottishPower and PacifiCorp may request the Commission to adjust the dates so that the merger credit begins on the one-year anniversary date of the actual closing date.

PacifiCorp shall establish a balancing account and credit that account with the appropriate per year credit, consistent with this provision, beginning on January 1, 2001, and each subsequent January 1, through 2004. The balancing account will accrue interest on the unamortized balance at PacifiCorp's authorized rate of return. Customers will receive the benefit of these monies through a rate credit described above and such credits shall reduce the unamortized account balance.

19. ScottishPower and PacifiCorp agree to make a general rate filing by March 1, 2004, for rates effective January 1, 2005, if the Commission requests on or before December 31, 2003, that PacifiCorp make such a filing. The Commission will not make such a request unless PacifiCorp's earnings fall outside a zone of reasonableness.
20. PacifiCorp and ScottishPower shall agree to comply with all Commission requirements regarding affiliated interest (AI) transactions, including timely filing of applications and reports. In particular for 2000, 2001, and 2002 PacifiCorp shall file semiannual AI reports on any new affiliated interest transactions between ScottishPower and PacifiCorp, in the form required by OAR 860-027-0100. The semi-annual AI report due date shall be October 1.
21. ScottishPower shall file its Merger Transition Plan (the Plan) with the Commission no later than six months after the closing date of the merger. The Plan shall include all items described in Exhibit ScottishPower/34.
22. ScottishPower and PacifiCorp agree not to assert in any future proceedings that neither the provisions of the PUHCA nor Ohio v. FERC shall preempt the Commission's jurisdiction over affiliated interest transactions. ScottishPower and PacifiCorp will explicitly waive any such defense in any proceeding.
23. ScottishPower and PacifiCorp agree to abide by all commitments and conditions in the Appendix, which lists commitments and conditions included in the UM 918 application, and also the accompanying testimony and exhibits that are not amended or superseded by or included in this list of conditions or one of the ScottishPower/PacifiCorp Stipulations.

24. If the Commission believes that ScottishPower and/or PacifiCorp has violated any of the conditions set forth above, then the Commission shall give ScottishPower and PacifiCorp written notice of the violation:
- a. If the violation is for failure to file any notice or report required by the conditions, and if ScottishPower and/or PacifiCorp provides the notice or report to the Commission within ten business days of the receipt of the written notice, then the Commission shall take no action. ScottishPower or PacifiCorp may request, for cause, permission for extension of the ten-day period. For any other violation of these conditions, the Commission must give PacifiCorp and ScottishPower written notice of the violation. If such failure is corrected within five business days of the written notice, then the Commission shall take no action. ScottishPower or PacifiCorp may request, for cause, permission for extension of the five-day period.
 - b. If ScottishPower and/or PacifiCorp fail to file a notice or report within the time permitted in a) above, or if ScottishPower and/or PacifiCorp fail to cure within the time permitted above a violation that does not relate to the filing of a notice or report, then the Commission may open an investigation to determine the number and seriousness of the violations. If the Commission determines that ScottishPower and/or PacifiCorp violated one or more conditions, then the Commission shall state the level of penalty it will seek under ORS 756.990 in an action filed in circuit court. If the Commission issues an order that recommends an ORS 756.990 penalty against ScottishPower and/or PacifiCorp, then ScottishPower and/or PacifiCorp may appeal such order under ORS 756.580. If the Commission's order is upheld on appeal, then the Commission may file a complaint in circuit court seeking penalties under ORS 756.990, and ScottishPower and PacifiCorp shall file a responsive pleading agreeing to pay the penalties. The Commission shall seek a penalty on only one of ScottishPower or PacifiCorp for the same violation.

APPENDIX

**SCOTTISHPOWER'S OREGON COMMITMENTS NOT
OTHERWISE CONTAINED IN SIGNED STIPULATIONS OR
CONDITIONS THAT ARE UNDER THE UMBRELLA OF THE
COMMISSION'S REGULATORY AUTHORITY**

I. CUSTOMER SERVICE**A. Network Performance**

1. Measurement of Network Performance Standards. ScottishPower will develop an improved system for outage reporting. Additionally, it will operate the old and new systems in parallel for up to two years if necessary for transitional purposes.

2. Two-Year Review. ScottishPower will commit to a review of network performance standards within two years after the completion of the transaction, no later than July 1, 2002. The purpose of this review will be to review possible modifications to targets or baselines and to assess whether ScottishPower's network performance standards are providing additional benefit to customers beyond that which would have been accomplished through pre-merger network performance programs.

B. Customer Service Performance

1. Telephone Service Levels (PS6). Within 120 days after completion of the transaction, 80% of calls to PacifiCorp's Business Centers will be answered within 30 seconds. This target will be increased to 80% in 20 seconds by January 1, 2001 and 80% in 10 seconds by January 1, 2002.

2. Complaint Resolution (PS7).

a. Non-Disconnect Complaints. Within 90 days after completion of the transaction, PacifiCorp will investigate and provide a response to all complaints referred by the Commission within 3 business days.

b. Disconnect Complaints. Within 90 days after completion of the transaction, complaints related to service disconnection will be responded to within 4 business hours.

c. Commission Complaints. Within 90 days after completion of the transaction, ninety percent of complaints referred to PacifiCorp by the Commission will be resolved within 30 days. This percentage will be increased to 95 percent by 2001.

C. Customer Service Guarantees

99-00616

1. Restoring the Customer's Supply (CG1).

a. Guarantee. (Already addressed in the "Stipulation Relating to Performance Standards and Customer Guarantees")

b. Penalty. If power is not restored in 24 hours, customers can claim \$50 for residential customers and \$100 for commercial and industrial customers. For each extra period of 12 hours the customer's supply has not been activated, the customer can claim \$25.

2. Appointments (CG2).

a. Guarantee. PacifiCorp will keep all mutually agreed appointments with the customer, whether over the phone or in writing. Beginning in the year 2001, PacifiCorp will offer the customer a morning appointment, between 8 AM and 1 PM, or an afternoon appointment, between 12 Noon and 5 PM.

b. Penalty. If PacifiCorp fails to meet its guarantee, PacifiCorp will automatically pay the customer \$50.

3. Switching On the Customer's Power (CG3).

a. Guarantee. Upon customer request, PacifiCorp will activate the power supply within 24 hours provided no construction is required and all government requirements are met.

b. Penalty. If PacifiCorp fails to meet its guarantee, it will automatically pay the customer \$50. In addition, for each extra period of 12 hours the customer's power supply has not been activated, PacifiCorp will automatically pay-out \$25 to the customer.

4. Estimates for Providing a New Supply (CG4).

a. Guarantee. Upon request by a customer for new power supply, PacifiCorp will call the customer back within 2 business days of the customer's initial call and schedule a mutually agreed appointment with an estimator. If PacifiCorp needs to change its network, it will provide a written estimate to the customer within 15 business days of the customer's initial meeting with the estimator. If PacifiCorp does not need to change its network, it will provide an estimate to the customer within 5 business days of the customer's initial meeting with the estimator.

b. Penalty. If PacifiCorp fails to meet its guarantee, PacifiCorp will automatically pay the customer \$50 for each failure.

5. Planned Interruptions (CG7).

a. Guarantee. PacifiCorp will ensure that customers receive notice at least 2 days in advance if it is necessary to turn the customer's power supply off for planned maintenance work or testing.

b. Penalty. If PacifiCorp fails to meet its guarantee, customers can claim \$50 for residential customers and \$100 for commercial and industrial customers.

6. Power Quality Complaints (CG8).

a. Guarantee. Upon notification from a customer about a problem with the quality of electric supply, PacifiCorp will either initiate an investigation within 7 days or explain the problem in writing within 5 business days. ScottishPower will develop clear standards and dedicated programs for implementation of this guarantee.

b. Penalty. If PacifiCorp fails to meet its guarantee, it will automatically pay the customer \$50.

7. Implementation. PacifiCorp will develop a process for implementing the Customer Service Guarantees that addresses dispute resolution processes and staffing, the development and definition of individual guarantees, and the process for administering the guarantees under approved tariffs. Data calculations to measure performance of the Customer Service Guarantees will be audited by the company and an outside auditor.

8. Reporting.

a. To Customers. PacifiCorp will issue a report to the customer by June 30 of each year regarding its record in improving Performance Standards and how well it has performed against its Customer Guarantees. Each report will contain an overview of standards, targets and guarantees and describe the performance results for that year. The report will also discuss any new targets PacifiCorp will be applying in the coming year.

b. To Commission. PacifiCorp will provide an annual report to the Commission by May 31 of each year that will discuss implementation of ScottishPower's programs and procedures for providing improved performance. The report will provide a general summary of how PacifiCorp performed according to the standards, targets and guarantees. The report will: (i) provide performance results for each standard, target or guarantee; (ii) identify excluded exceptions; (iii) explain any historical and anticipated trends and events that affected or will affect the measure in the future; (iv) describe any

technological advancements in data collection that will significantly change any performance indicator; (v) discuss any "phase in" of new standards, targets or guarantees; and (vi) include the name and telephone numbers of contacts at PacifiCorp to whom inquiries should be addressed. If the company is not meeting a standard, target or guarantee, the report will: (i) provide an analysis of relevant patterns and trends; (ii) describe the cause or causes of the unacceptable performance; (iii) describe the corrective measures undertaken by the company; (iv) set a target date for completion of the corrective measures; and (v) provide details of any penalty payments due.

II. COST SAVINGS & REGULATORY OVERSIGHT (covered in full by Stipulation)

III. COMMITMENT TO THE ENVIRONMENT

A. Renewable Resources and Conservation

1. PacifiCorp will develop, or acquire from a developer, an additional 50 MW of system-wide renewable resources (wind, solar and/or geothermal) at an anticipated cost of approximately \$60 million within five years after completion of the transaction, on the following bases:

- (i) Extension of the system benefit charge and renewables incentive portions of PacifiCorp's alternative form or regulation ("AFOR");
- (ii) Increase in the AFOR cap on eligible renewable resources; and
- (iii) Resources must pass the AFOR renewable resource cost-effectiveness standard.

These renewable resource commitments are in addition to resources PacifiCorp would implement through other programs such as the green resource tariff.

2. Within 60 days after completion of the transaction, PacifiCorp will file applications in each state for a "green resource" tariff.

3. PacifiCorp will contribute \$100,000, funded by shareholders, to the Bonneville Environmental Foundation for use in the development of new renewable resources and fish mitigation projects.

B. Environmental Management

99-00616

1. PacifiCorp will have environmental management systems in place that are self-certified to ISO 14001 standards at all PacifiCorp operated thermal generation by the end of 2000.
2. ScottishPower will include PacifiCorp operations in ScottishPower's comprehensive annual environmental report with appropriate specific goals.
3. ScottishPower will include a PacifiCorp officer on the Environmental Policy Advisory Committee.
4. ScottishPower will develop a process to gather outside input on environmental matters, such as the establishment of an Environmental Forum.

IV. OTHER COMMITMENTS

A. Representation

1. ScottishPower will maintain the existing Regional Advisory Boards.
2. Subject to the exercise of fiduciary duties, and to the extent permitted by applicable law, ScottishPower's Board of Directors shall take action to include Keith McKennon, as Deputy Chairman of ScottishPower and two additional non-executive members of the PacifiCorp's current Board of Directors.
3. Richard O'Brien will serve as President and Chief Operating Officer of PacifiCorp.
4. ScottishPower shall cause certain of the non-executive members of PacifiCorp's current Board, who do not become directors pursuant to the previous paragraph, and who are willing to so serve, to be elected or appointed as members of a PacifiCorp Advisory Board.

B. Headquarters

1. ScottishPower intends to maintain PacifiCorp's corporate office in Portland, OR, as well as establish its U.S. headquarters there.

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APPENDIX 6

Glossary to Acronyms for Names of Parties
(Alphabetical Listing)

Applicants	PacifiCorp and Scottish Power plc
BPA	Bonneville Power Administration
CADO	Community Action Directors of Oregon
CUB	Citizens' Utility Board of Oregon
ICNU	Industrial Customers of Northwest Utilities
NRDC	Natural Resources Defense Council
NWEC	NW Energy Coalition
OECA	Oregon Energy Coordinators Association
RNP	Renewable Northwest Project
ScottishPower	Scottish Power plc
Staff	Staff of the Oregon Public Utility Commission
URP	Utility Reform Project and Daniel Meek
Vulcan	Vulcan Power Company

Glossary to Other Acronyms
(Alphabetical Listing)

AFOR	Alternative Form of Regulation
MAIFI and MAIFle	Momentary Average Interruption Frequency Indices
NEEA	Northwest Energy Efficiency Alliance
OHCSO	Oregon Housing and Community Services Development
PUHCA	Public Utility Holding Company Act of 1935
RRR	Revenue Requirement Reduction
SAIDI	System Average Interruption Duration Indices
SAIFI	System Average Interruption Frequency Indices
SBC	System Benefits Charge
SQM	Service Quality Measures