

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF PACIFICORP DBA UTAH POWER &) CASE NO. PAC-E-01-16
LIGHT COMPANY FOR APPROVAL)
INTERIM PROVISIONS FOR THE SUPPLY) AMENDED NOTICE OF
OF ELECTRIC SERVICE TO MONSANTO) APPLICATION
COMPANY.)
) NOTICE OF SECOND
) INTERVENTION DEADLINE
)
) NOTICE OF SCHEDULING
)
) NOTICE OF HEARING**

On December 10, 2001, PacifiCorp dba Utah Power & Light Company (PacifiCorp; Company) filed an Application with the Commission regarding supply of electric service to Monsanto Company (Monsanto). In its Application the Company represented that the 1995 Power Supply Agreement (Agreement) between Monsanto and PacifiCorp was expiring December 31, 2001, and requested that an interim rate be established. Monsanto contends that the Agreement extends to December 31, 2002. PacifiCorp and Monsanto are engaged in litigation in Federal District Court regarding the contract termination date.

The Commission by Order No. 28918 issued December 21, 2001, provided Notice of the Company's Application, denied the Company's interim rate request, suspended the Company's Application, established an intervention deadline and set a prehearing conference for January 29, 2002 to discuss scheduling. The Commission in its Order determined that the existing contract rate (subject to true-up) should remain in effect until the Commission rendered a decision on the Company's Application. See Agreement at p. 11, § 4.1.3. Reference *Idaho Code* §§ 61-622, 61-623.

The 1995 Agreement provides, in relevant part, that the Agreement "shall continue in full force and effect through December 31, 2001, and thereafter shall be renewed annually until either party gives at least one year's written notice of termination." Monsanto claims that this provision of the Agreement bars PacifiCorp from giving the one-year notice of termination until

AMENDED NOTICE OF APPLICATION
NOTICE OF SECOND INTERVENTION DEADLINE
NOTICE OF SCHEDULING
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after December 31, 2001. The Commission is apprised that the Federal District Court has determined that the contract provision at issue is ambiguous because it is “reasonably susceptible to conflicting interpretations.” Mediation has been proposed. Should the matter go to trial, a hearing date is not expected prior to mid 2003. Under either party’s interpretation of the Agreement, there is no service agreement after December 31, 2002.

YOU ARE HEREBY NOTIFIED that as reflected in the Commission’s prior Notice of Application in this case, the Commission finds that the process to establish a permanent rate going forward for Monsanto is a complex matter that will require significant review and analysis. Monsanto is PacifiCorp’s largest Idaho customer with a load of over 200 megawatts. In its Application the Company proposed that the pricing for this electric service should be based on a “cost of service” study specific to Monsanto. As part of the Company’s original testimony in this case, a cost-of-service (COS) study by rate schedule over a 12-month period ending December 31, 1999, was submitted to support the Company’s proposed rates for Monsanto. Accordingly, the public is notified that the cost of service for Monsanto and/or other customer classes is an identified issue in this case docket and these proceedings.

YOU ARE FURTHER NOTIFIED that pursuant to agreement of the parties the following scheduling in this case is adopted:

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|-----------------|--|
| May 29, 2002 | Supplemental direct testimony prefile date
PacifiCorp (already filed) |
| July 19, 2002 | Direct testimony prefile date – Monsanto |
| August 9, 2002 | Direct testimony prefile date – Staff/Intervenors |
| August 23, 2002 | Rebuttal testimony prefile date |

YOU ARE FURTHER NOTIFIED that discovery is available in Case No. PAC-E-01-16 pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.221-234. The parties recognize that expedited responses may be necessary to facilitate compliance with the foregoing scheduling.

YOU ARE FURTHER NOTIFIED that **persons desiring to intervene** in this matter for the purpose of presenting evidence or cross-examining witnesses at hearing **must file a Petition to Intervene** with the Commission pursuant to this Commission’s Rules of Procedure

72 and 73, IDAPA 31.01.01.072 and -.073. Persons intending to participate at the scheduled hearing in this case must file a Petition to Intervene **on or before Monday, July 8, 2002**. Persons desiring to present their views without parties' rights of participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or the parties.

YOU ARE FURTHER NOTIFIED that a **technical hearing** in Case No. PAC-E-01-16 is scheduled to commence on **WEDNESDAY, SEPTEMBER 4, 2002 AT 9:30 A.M. IN THE COMMISSION HEARING ROOM, 472 W. WASHINGTON STREET, BOISE, IDAHO**, continuing to September 5 and 6 at the same location if necessary.

YOU ARE FURTHER NOTIFIED that the Application together with supporting workpapers, testimonies and exhibits, have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The Application is also available for public inspection on the Commission's homepage at www.puc.state.id.us under the "File Room" icon and "Electric Cases."

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: jjewell@puc.state.id.us

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61. The

Commission has jurisdiction over this matter pursuant to *Idaho Code* §§ 61-502, 61-622, and 61-623.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

DATED at Boise, Idaho this day of June 2002.

Jean D. Jewell
Commission Secretary

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