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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Intervenor Monsanto Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
PACIFICORP DBA UTAH POWER & LIGHT) **Case No. PAC-E-05-1**
COMPANY FOR APPROVAL OF CHANGES)
TO ITS ELECTRIC SERVICE SCHEDULE)
_____)

COMMENTS AND OBJECTIONS OF MONSANTO COMPANY

Comes now Intervenor Monsanto Company (“Monsanto”), through counsel, and submits the following comments and objections regarding the proposed settlement Stipulation submitted to the Commission for approval. This is intended to set forth Monsanto’s position with respect to the settlement of this case and to provide Monsanto’s requested changes to the proposed Stipulation. Monsanto’s current rates are not directly impacted by this case because they are set through December 31, 2006 by contract approved by the Commission. Notwithstanding, Monsanto has a direct and substantial interest in this case as PacifiCorp’s largest customer and because the cost of service study, allocation methods, and test year, adopted for other customers may impact future rate proceedings affecting Monsanto’s subsequent contracts and rates.

First, Monsanto makes clear it has no objection to the proposed \$5.75 million “black box” settlement spread uniformly to tariff customers and other relevant provisions so long as they address issues actually presented by PacifiCorp’s filing, are fair, just and reasonable to all parties, do not prejudice or impair the rights and interests of any individual party and are unanimously agreed to. However, as the Commission noted in its Notice regarding this proposed stipulation, Monsanto specifically objects to ¶9 of the Stipulation, a provision that addresses

special contract customers and how their rates may be changed. Consequently, Monsanto's comments on its objection to the proposed Stipulation focus primarily on ¶9, to wit:

"Staff and the Company agree that all of the Company's Idaho customers should be served under the tariff standard. In any future proceedings involving Company customers seeking electric service under a special contract, Staff will support the position that any service contract should be pursuant to the tariff standard rather than the contract standard. Other Parties to the Stipulation that participate in such proceedings shall support or not oppose this position. The Commission is not bound by any agreement of the Parties on this issue in any such proceedings

PacifiCorp's ¶9 is a purposeful attempt to get Staff and all other parties to support tariff rates and reject contract rates for Monsanto. This paragraph without question should be deleted. This provision is extremely objectionable and highly inflammatory, purports to settle an issue never raised or presented in PacifiCorp's filing or by any other party in this case, is entirely irrelevant to the settlement and premature for discussion of Monsanto's subsequent contract. Monsanto urges the Commission and other parties to support removal of paragraph 9, as well as the other minor changes suggested by Monsanto. The reasons are summed up as follows:

(1) Whether Monsanto should be served under contract or tariff rates in future proceedings is not an issue presented in this case, and is not a part of PacifiCorp's filing. Accordingly, it is improper and violates due process to address and include in a settlement Stipulation an issue never presented by the Applicant PacifiCorp to the Commission for determination. This is particularly onerous where the only party impacted by the provision objects.

Monsanto has continuously received electric service via special contract rates since 1951, some 54 years. PacifiCorp does not have any tariff rates in Idaho applicable to large industrial users. The last industrial tariff Schedule No. 13 was eliminated in 1990 when PacifiCorp Sr. Vice President John A. Bohling wrote the Commission stating:

Utah Power would prefer to see the schedule eliminated and hereby makes that request to the commission. Schedule No. 13 for large industrial services has never been used by any customer. Currently there are no customers on it and in the future any customers who would qualify, having loads over 15,000 KW, would be provided for under a special contract.

This case presents neither the time or place to consider eliminating special contract rates or establishing new industrial tariffs. Such issues involve many factors and warrant thorough analysis and a full opportunity for debate, neither of which are appropriate at this time.

(2) Paragraph 9 of the Stipulation is an improper and unlawful collateral attack on the Commission's Order No. 29517 in the Monsanto rate case, Docket No. PAC-E-01-16 approving Monsanto's special contract, an Order that was never appealed by PacifiCorp. The Commission specifically rejected PacifiCorp's request for a tariff standard stating as follows:

"The Commission finds the tariff standard proposed by the Company to be unreasonable. The Commission finds that the contract, apart from authorized re-openers, should be subject to the public interest contract standard as set forth in the *Agricultural Products* case, *Agricultural Products v. Utah Power Light Co.*, 98 Idaho 23, 557 P.2d 617 (1976). Under this doctrine, approved contract rates cannot be changed during the contract term unless we find that a change in rates is necessary to prevent an adverse affect on the public interest." Final Order No. 29157, p. 15, (emphasis added).

(3) Since ¶9 seeks to prejudge treatment of Monsanto in subsequent contracts, it further expressly violates the Stipulation and Commission's Order No. 29708 issued on November 5, 2004 in the MSP case relating to inter-jurisdictional issues affecting PacifiCorp, Docket No. PAC-E-02-3. While the MSP Stipulation and Agreement claims that Monsanto's *current* rates would not be affected by any rate change in the 2005 general rate proceeding, PacifiCorp has circumvented the MSP Stipulation by inclusion of ¶9 which prejudices Monsanto's *subsequent* rates will be tariff-based. The Stipulation and Agreement provided in ¶2(d) as follows:

"PacifiCorp's largest Idaho customer, Monsanto, is currently served under a Special Contract. The current contract expires December 31, 2006. Monsanto's current rates are established by contract and, therefore, not affected by this Stipulation, by the surcharge related to Docket PAC-E-03-5, or by any rate change established in the anticipated general rate proceeding in calendar year 2005." (emphasis added)

Additionally, paragraph 6(b) provided:

"For purposes of establishing Monsanto's cost of service for subsequent Special Contracts, the Company's Idaho revenue requirement will be calculated consistent with the Rate Mitigation Mechanism described in subsection (a) above. This

Stipulation does not prejudice how or over what timeframe Monsanto's cost of service will be established and no parties waive any arguments with respect thereto." (emphasis added).

By prejudging in this general rate proceeding that Monsanto will have no subsequent Special Contract (as evidenced by agreeing that all Idaho customers should be served under the tariff standard), PacifiCorp has gone beyond the issues of the present general rate case. The very purpose intended by PacifiCorp in ¶9 is to obligate Staff and the other parties to prejudge how Monsanto's rates would be established in the future.

(4) Paragraph 9 is irrelevant to this case and unnecessary for the purposes of the Stipulation and settling all issues properly presented by PacifiCorp in its filings. The elimination of ¶9 will not diminish or detract from the other provisions of the settlement, namely the revenue increase or rate spread. "Blackbox" settlements often involve compromises between the various parties to a case. Monsanto did not question the amount or allocation of the proposed settlement values that impact the other customers. It, therefore, is simply not proper business protocol for other customers to agree to unsupported positions which adversely affect only Monsanto.

(5) The Stipulation already identifies in ¶8 the issue relating to the treatment of including or excluding Monsanto as a Special Contract customer in the Idaho Class Cost of Service Study and provides that such issues will be addressed in the next general rate case to be filed in 2006. PacifiCorp's only real motive for adding the unnecessary ¶9 is to leverage the other parties, pressure the Commission and try to position itself more favorably for purposes of future contract negotiations and rate proceedings affecting Monsanto's subsequent contracts and rates. It is an unabashed strategic move that has no purpose other than to garner future leverage.

To demonstrate Monsanto's good faith attempt to address these issues, Monsanto presented to parties a "redline" revised draft of the proposed Stipulation reflecting changes requested by Monsanto which would enable it to be a signatory party. This "redline" is attached to Monsanto's comments for the Commission's information. Minor changes are made to ¶8 to accurately characterize the issue relating to the treatment of including or excluding Monsanto in the Idaho Class Cost of Service Study.

Monsanto is happy to join in the proposed Stipulation with the requested changes as

shown in our redline. If these changes are not made however, then Monsanto strenuously opposes the settlement and urges the Commission to strike ¶9 in its entirety.

DATED this 30th day of June, 2005.

RACINE, OLSON, NYE, BUDGE &
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By Randall C. Budge
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 30th day of June, 2005, I served a true, correct and complete copy of the foregoing document, to each of the following, via the method so indicated:

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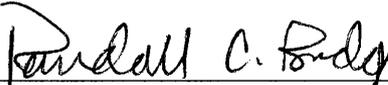
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Power & Light Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE)
APPLICATION OF PACIFICORP DBA)
UTAH POWER & LIGHT COMPANY) CASE NO. PAC-E-05-1
FOR AUTHORITY TO INCREASE ITS)
RATES FOR ELECTRIC SERVICE) STIPULATION
TO ELECTRIC CUSTOMERS IN THE)
STATE OF IDAHO)**

This stipulation ("Stipulation") is entered into by and among PacifiCorp, doing business as Utah Power & Light Company ("PacifiCorp" or the "Company"), the Idaho Public Utilities Commission Staff ("Staff"), the Idaho Irrigation Pumpers Association, Inc. ("IIPA"), Agrium, Inc. ("Agrium"), J.R. Simplot Company ("Simplot"), Monsanto Company

Deleted:),

(“Monsanto”)Community Action Partnership Association of Idaho (“CAPAI”) and Timothy J. Shurtz (“Shurtz”) (collectively referred to as the “Parties”).

I. INTRODUCTION

1. The terms and conditions of this Stipulation are set forth herein. The Parties agree that this Stipulation represents a fair, just and reasonable compromise of the issues raised in this proceeding and that this Stipulation is in the public interest. The Parties, therefore, recommend that the Public Utilities Commission (“Commission”) approve the Stipulation and all of its terms and conditions. Reference IDAPA 31.01.01.272, 274.

II. BACKGROUND

2. On January 15, 2005, PacifiCorp filed an Application in this case, seeking authority to increase the Company’s base rates for electric service by \$15.1 million annually, an average increase of approximately 12.5%. The increase in base rates would vary by class of customer and actual usage. The proposed increase is offset in part by the expiration of the Power Cost/Tax Surcharge in September 2005. The revised tariff schedules reflect a net increase of \$11.4 million (9.2%) and a proposed effective date of September 16, 2005.

3. Petitions to intervene in this proceeding were filed by Monsanto Company, IIPA, Agrium, Simplot, CAPAI, and Shurtz. By various orders, the Commission granted these interventions.

4. Following a May 4, 2005 Notice of Staff Intent to Engage in Settlement Discussions (IDAPA 31.01.01.272), representatives of the Parties met on May 16 and engaged in initial discussions with a view toward resolving PacifiCorp’s Application in this case.

Based upon the settlement discussions among the Parties, as a compromise of the positions in this case, and for other consideration as set forth below, the Parties agree to the following terms:

III. TERMS OF THE STIPULATION

5. PacifiCorp shall be allowed to implement revised tariff schedules designed to recover \$5.75 million in additional annual revenue from base rates, representing an aggregate base rate increase of 4.8%. Such revised tariff schedules shall become effective as of September 16, 2005, contemporaneously with the expiration of the Power Cost/Tax Surcharge (Schedule 93) currently appearing on customers' bills. (Order No. 29518) All regulatory assets and liabilities included in PacifiCorp's filing are unadjusted and recognized for purposes of this settlement.

6. The Parties agree that this revenue requirement results in a uniform 1.7% rate increase above current rates whether or not such current rates include Schedule 93, Power Cost/Tax Surcharge and Schedule 94, Rate Mitigation Adjustment. The overall increase will be reflected in base rate tariffs filed for each customer class.

7. This Stipulation implements the Revised Protocol jurisdictional cost allocation methodology in Idaho. In Case No. PAC-E-02-3, Order No. 29708, the Commission approved a Stipulation and Agreement ("MSP Stipulation") recommending implementation of Revised Protocol. The MSP Stipulation included a Rate Mitigation Measure to limit the financial impact regarding the choice of allocation methodology. Under the Rate Mitigation Measure, the impact of implementation of Revised Protocol was limited to 101.67 percent of the rates that would have resulted from use of the Rolled-In method. As a result of application of the Rate Mitigation Measure, the Company's original filing in this case was reduced by \$1.8 million below what it would have been without application of the Rate Mitigation Measure. The Parties support continued use of the Revised Protocol for future rate proceedings, consistent with the terms and conditions of the MSP Stipulation.

8. The Parties were unable to agree upon the treatment of including or excluding Monsanto in the Idaho class cost of service study. In Case No. PAC-E-01-16. In that proceeding, the Commission approved a fixed price contract for Monsanto to remain in effect through December 31, 2006, finding that the rates and charges under the contract would

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“reasonably reflect the Company’s cost of service to Monsanto going forward.” *Order No. 29157, p. 8.* In its initial filing in this case, PacifiCorp’s cost of service study allocated its Idaho revenue requirement deficiency only to its Idaho tariffed customers eligible for an increase, *i.e.*, its Idaho customers other than Monsanto. Staff, Irrigators and Agrium opposed this treatment, and argued that any revenue requirement deficiency associated with service to Monsanto’s fixed price contract should not be spread to the Company’s remaining Idaho customers. No cost of service study or treatment of Monsanto is adopted either expressly or impliedly by this Stipulation. Any such issues relating to cost of service may be addressed in the next general rate case to be filed by the Company no later than April 29, 2006 in order that the effective date of rates in that proceeding will coincide with the expiration of the current Monsanto contract in December 2006.

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9. This Stipulation will not be utilized or interpreted to deny Idaho customers of any potential benefit arising out of the proceedings in any state related to MidAmerican Energy Holding Company’s acquisition of PacifiCorp.

Deleted: (*i.e.*, the difference between Monsanto’s fixed price contract rates and the cost of serving Monsanto if its cost of service were updated) should not be spread to the Company’s remaining Idaho customers. The cost of service issue is not resolved in this Stipulation, and is proposed to be

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Deleted: Staff and the Company agree that all of the Company’s Idaho customers should be served under the tariff standard. In any future proceedings involving Company customers seeking electric service under a special contract, Staff will support the position that any service contract should be pursuant to the tariff standard rather than the contract standard. Other Parties to the Stipulation that participate in such proceedings shall support or not oppose this position. The Commission is not bound by any agreement of the Parties on this issue in any such proceedings.

10. Staff agrees to meet with the Company in a collaborative discussion to explore development of alternative rate recovery mechanisms, including a power cost adjustment (PCA) mechanism or an alternative form of regulation (AFOR). The initial meeting to discuss the development of such mechanisms shall occur no later than thirty (30) days after the Commission’s order with respect to this Stipulation. The purpose of these meetings is to discuss the possibility of developing on an expedited schedule a mutually agreeable form of alternative rate recovery mechanism that could be filed with the Commission for approval prior to the Company’s next general rate proceeding in Idaho, and implemented in such rate proceeding. All Parties shall be provided with notice of these meetings and an opportunity to participate.

11. The Company agrees to meet with IIPA and other interested parties regarding the calculation of credits under the Company’s Schedule 72, the Irrigation Load Control Credit Rider. The initial such meeting shall occur no later than August 31, 2005. In the event the

parties reach agreement on such calculation, the Company shall prepare a stipulation setting forth the agreed-upon terms and file such stipulation with the Commission no later than September 30, 2005. In the event these parties do not reach agreement on such calculation, each party shall file its proposal with respect to this issue with the Commission no later than September 30, 2005 in order to accommodate a Commission decision that will not delay the scheduled January 15, 2006 customer notification of the credit level for the 2006 irrigation season.

12. To increase customer participation and available incentives for installation of additional cost-effective weatherization measures, PacifiCorp will file revisions to its Low Income Weatherization Program tariff (Schedule 21). Specific proposed program and tariff changes will include increasing the available annual Community Action Agency incentives from \$100,000 to \$150,000 annually. The Company will also propose to increase the rebate on weatherization services available on homes with installed electric heat from the current maximum of \$1,000 per dwelling to an average annual rebate of \$1,500 per dwelling. In addition, the Company will propose to increase the administrative reimbursement provided to Community Action Agencies from \$150 per completed home to 15 percent of PacifiCorp's rebate on installed measures with set maximums. The Company will also propose to expand its current program incentives by offering reimbursement of 50 percent of costs associated with additional measures installed in homes regardless of heating source, including compact fluorescent light bulbs, replacement refrigerators and water heating measures in homes with electric water heaters. To promote installation of efficiency measures that have become cost-effective in the last decade, PacifiCorp will propose to offer rebates for homes in which benefits were provided under this tariff prior to October 1, 1993, once per individual measure and up to two times per dwelling. The Company will evaluate this tariff (Schedule 21) within two years to determine if further revisions are warranted.

13. The Parties agree that this Stipulation represents a compromise of the positions of the Parties in this case. Other than the above referenced positions and any testimony filed in

support of the approval of this Stipulation, and except to the extent necessary for a Party to explain before the Commission its own statements and positions with respect to the Stipulation, all negotiations relating to this Stipulation shall not be admissible in evidence in this or any other proceeding regarding this subject matter.

14. The Parties submit this Stipulation to the Commission and recommend approval in its entirety pursuant to IDAPA 31.01.01.274. Parties shall support this Stipulation before the Commission, and no Party shall appeal any portion of this Stipulation or Order approving the same. If this Stipulation is challenged by any person not a party to the Stipulation, the Parties to this Stipulation reserve the right to cross-examine witnesses and put on such case as they deem appropriate to respond fully to the issues presented, including the right to raise issues that are incorporated in the settlements embodied in this Stipulation. Notwithstanding this reservation of rights, the Parties to this Stipulation agree that they will continue to support the Commission's adoption of the terms of this Stipulation.

15. In the event the Commission rejects any part or all of this Stipulation, or imposes any additional material conditions on approval of this Stipulation, each Party reserves the right, upon written notice to the Commission and the other Parties to this proceeding, within 15 days of the date of such action by the Commission, to withdraw from this Stipulation. In such case, no Party shall be bound or prejudiced by the terms of this Stipulation, and each Party shall be entitled to seek reconsideration of the Commission's order, file testimony as it chooses, cross-examine witnesses, and do all other things necessary to put on such case as it deems appropriate. In such case, the Parties immediately will request the prompt reconvening of a prehearing conference for purposes of establishing a procedural schedule for the completion of the case. The Parties agree to cooperate in development of a schedule that concludes the proceeding on the earliest possible date, taking into account the needs of the Parties in participating in hearings and preparing briefs. If necessary, the Company will extend the suspension period for such period as is reasonably necessary to accommodate the revised procedural schedule.

16. The Parties agree that this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable.

17. No Party shall be bound, benefited or prejudiced by any position asserted in the negotiation of this Stipulation, except to the extent expressly stated herein, nor shall this Stipulation be construed as a waiver of the rights of any Party unless such rights are expressly waived herein. Execution of this Stipulation shall not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation or cost recovery. No Party shall be deemed to have agreed that any method, theory or principle of regulation or cost recovery employed in arriving at this Stipulation is appropriate for resolving any issues in any other proceeding in the future. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.

18. The obligations of the Parties under this Stipulation are subject to the Commission's approval of this Stipulation in accordance with its terms and conditions and upon such approval being upheld on appeal by a court of competent jurisdiction.

Respectfully submitted this 10th day of June, 2005.

PacifiCorp

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