STOEL RIVES LLP
ATTORNEYS AT LAW

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IDAHO PUBLIC UTILITIES COMMISSION

201 S. Main Street, Suite 1100
Salt Lake City, Utah 84111
main 801.328.3131
fax 801.578.6999
www.stoel.com

JOHN M. ERIKSSON
Direct Dial
(801) 578-6937
email jmeriksson@stoel.com

Hand Delivery

VIA OVERNIGHT DELIVERY AND U.S. MAIL

February 18, 2003

Ms. Jean D. Jewell
Commission Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, ID 83702

Re: Case No. PAC-E-01-16
Confidential Transcript

Dear Ms. Jewell:

Enclosed in the attached, sealed envelope is a copy of a portion of the confidential transcript from the *in camera* portion of the hearings in Case No. PAC-E-01-16. Please accept this copy for filing with PacifiCorp's Petition for Reconsideration and Clarification of Order No. 29157 filed on this same date.

Thank you for your assistance.

Very truly yours,

John M. Eriksson

JME:sm
Enclosures
cc: All Parties w/o enc.

James F. Fell
John M. Eriksson
STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204
Telephone: (503) 294-9343
Fax Number: (503) 220-2480

Attorneys for PacifiCorp

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Application of PacifiCorp d/b/a Utah Power & Light Company for Approval of Interim Provisions for the Supply of Electric Service to Monsanto Company	PACIFICORP'S PETITION FOR RECONSIDERATION AND CLARIFICATION OF ORDER NO. 29157 PAC-E-01-16

Pursuant to Idaho Code § 61-626 and Idaho Public Utilities Commission Rules of Procedure 325 and 331, PacifiCorp, dba Utah Power & Light Company ("PacifiCorp" or the "Company") hereby petitions this Commission: 1) for reconsideration of its determination in Order No. 29157, issued January 27, 2003 ("Order"), not to prorate or otherwise adjust monthly credits for interruptible/curtailment options to reflect the monthly availability of furnace load; 2) for reconsideration of its determination that system integrity interruptions should be limited to 95 MW; 3) for clarification or reconsideration of the Order with respect to the amount of Monsanto's load to which firm pricing shall apply; and 4) for clarification with respect to true-up under the Order and Order No. 28918, dated December 21, 2001, and the implementation of the pricing approved in the Order. PacifiCorp requests reconsideration by written briefs or statements.

In support of this Petition, PacifiCorp states as follows:

INTRODUCTION

The Commission issued its Proposed Order in this case on December 10, 2002 and invited parties to submit comments regarding the Proposed Order. One of the issues on which PacifiCorp submitted Comments was the billing of Monsanto's monthly credits for interruptibility. In the final Order, the Commission rejected "PacifiCorp's proposal to revise the method for calculation of monthly credits for interruptible/curtailment options to reflect the monthly availability of furnace load." Order at 2. The Commission's failure to prorate or otherwise adjust to account for furnace unavailability is unreasonable and erroneous.

The Order provides that system integrity interruptions are to be limited to 95 MW. That limitation was not requested by any party and lacks any support, and PacifiCorp requests that on reconsideration the Commission provide that system integrity interruptions can be utilized by PacifiCorp to interrupt Monsanto's entire furnace load.

The Order is unclear as to the amount of Monsanto's load which the Commission intends PacifiCorp to bill as firm load. The Commission should clarify that *all* of Monsanto's firm load, not just 9 MW, should be billed as firm. If the Commission intends otherwise through the Order, *i.e.*, that any consumption above 9 MW shall be billed as interruptible, such a determination is unreasonable and erroneous.

Further, the Commission's Order No. 28918 in this case adopted a true-up mechanism in the event the U.S. District court determines the 1995 Agreement expired December 31, 2001. PacifiCorp requests clarification as to whether the Commission intends that the true-up shall account for the fact that Monsanto already received payments for operating reserve curtailment

under separate agreements during certain months of 2002. Failure to take such prior payments into account will result in double payment to Monsanto for operating reserves for those months.

ARGUMENT

I. It is unreasonable not to allow monthly credits for curtailment and interruptibility to be adjusted to account for furnace unavailability.

The Order requires that PacifiCorp compensate Monsanto for the value of curtailment and interruptibility by means of a fixed discounted monthly demand charge. The adopted pricing design is unreasonable and erroneous, as it will allow Monsanto to receive compensation for curtailment and interruptibility which it may, by its own unilateral election or otherwise, not provide or not be able to provide.

In its Order, the Commission found that "separate rate components for customer demand and energy charges are appropriate." (Order at 8.) To reflect the firm rate the Commission found reasonable -- $30.27 per MWh -- the Commission established a customer charge of $283 per month, a demand charge of $8.81 per kW-mo, and an energy charge of $16.31 per MWh. (*Id.*) Based on the $30.27 per MWh, as an all-inclusive expected firm energy rate, and an interruptible credit of 7.48 mills/kWh, the Commission calculated a total overall expected energy net price of $22.80 per MWh for Monsanto's interruptible service. (Order at 13.) In its discussion regarding the value of interruptibility, the Commission affirmed the Company's proposed energy or "strike price" of $16.31 per MWh upon which the value of interruptibility and curtailment is at least in part based, but found "a discounted demand charge of $4.09/kW-month to be reasonable based on net annual revenue of $22.80/MWh." (Order at 13.)

In its Comments to the Proposed Order, PacifiCorp stated that it was not clear how the Commission intended that the credits for interruptibility be reflected on Monsanto's monthly bills. The Company took exception to the Proposed Order to the extent it required PacifiCorp to

provide an interruptibility credit by billing Monsanto a fixed discounted monthly demand charge, and proposed a method of providing the same level of approved interruptibility credits, while also allowing for adjustment necessary to account for the unavailability of furnaces for curtailment or interruption. Without explanation or discussion, the Commission rejected PacifiCorp's proposal.

A fixed discounted demand charge would not maintain the necessary relationship between the credit given for interruptibility and the amount of interruptibility actually made available by Monsanto. Specifically, if Monsanto does not operate a furnace in a billing month or takes a furnace out of service entirely, interruption of that furnace load will not be available to PacifiCorp for either operating reserves interruption or economic curtailment. Yet, if Monsanto is billed at the fixed discounted demand charge as required by the Order, it will be getting a discounted rate in exchange for something it could not or unilaterally elected not to provide. It is not reasonable to require a rate design with a discounted rate, where the discount is based on the customer providing a level of interruptibility which the customer, by its own choosing or otherwise, does not provide.

As PacifiCorp noted in its post-hearing brief and its Comments, one of the advantages to separate demand and energy charges is to accurately capture changes to furnace availability and/or usage. PacifiCorp will be paying Monsanto substantial sums, in the form of credits, for the right to interrupt its furnace load for operating reserves and economic curtailment. If Monsanto's furnace load is reduced for economic or operational reasons during the term of the agreement, permanently or temporarily, PacifiCorp will not be able to interrupt Monsanto for the full amount of load specified in the Order. With a <u>fixed</u> demand charge that is discounted to

reflect the full value of interruptibility, PacifiCorp would be paying Monsanto for the right to curtail a non-existent load. To require such payments is clearly not reasonable.

Further, there is no evidence, let alone substantial evidence, supporting a fixed discounted demand charge that cannot be adjusted to reflect the reduced value to PacifiCorp resulting from the inability to interrupt furnace load. The appropriateness of prorating interruptibility credits has been recognized and agreed to by Monsanto in prior operating reserve agreements. (PacifiCorp Brief, Attachment A, pp. 3, 4; Exhibit 5; see also, the confidential cross-examination of Daniel Schettler, Tr. 468-469, submitted herewith.)

While the above discussion applies to both interruptibility for operating reserves and economic curtailment, the inability to prorate interruptibility credits is especially significant with respect to operating reserves and the WECC criteria which must be met in order for load to qualify as operating reserves. The Order provides that PacifiCorp will purchase, and that Monsanto will provide, 95 MW of operating reserves. Subject to specified limitations, PacifiCorp is entitled to call upon, and Monsanto must provide, 95 MW of operating reserves by interruption of its 46 MW and 49 MW furnaces. The credit PacifiCorp is to pay Monsanto, through the reduced demand charge set by the Order, is based on that 95 MW. The inappropriateness of compensating Monsanto through a discounted demand charge is illustrated by a simple example, which unfortunately became a real life example three days following the issuance of the Order. On January 29, 2003, PacifiCorp advised Monsanto that it was designating 95 MW of Monsanto's furnace load for operating reserves. Only hours later, Monsanto advised PacifiCorp that it experienced a failure of its 67 MW furnace (furnace #9), thus leaving it with only its 46 MW and 49 MW furnaces, and that furnace #9 would be out of service for as many as 15 days. Monsanto advised PacifiCorp that it could not interrupt both the

remaining furnaces which made up the 95 MW of operating reserves, because it needs to keep at least one furnace operating at all times to supply Monsanto's kiln. Affidavit of Bruce Griswold, attached hereto ("Griswold Affidavit"). Under these circumstances and the provisions of the Order, Monsanto will receive, through the fixed discounted demand charge for January and February, value for 95 MW of operating reserves, *as though* that level of operating reserves was available during the entire period of each month. Yet, because of the unavailability of the entire 95 MW, PacifiCorp was required to otherwise obtain 46 MW of operating reserves, at a substantial cost, because under WECC criteria, interruptible load cannot be counted toward operating reserves if it is not available for interruption. Tr. 143. It is manifestly unfair and unreasonable to require PacifiCorp to compensate Monsanto for a service which Monsanto cannot or will not provide.

The Commission's rejection of PacifiCorp's proposal to design prices to allow for proration of the interruptibility credit is particularly difficult to understand in light of the Commission's recognition of the appropriateness of a contract reopener if WECC changes criteria for operating reserves. As the Commission found, "WECC Operating Reserve requirements are outside the Company's control and are critical to the valuation of Non-spinning Operating Reserves." Order at 15. That is, if the value of operating reserves provided by Monsanto changes due to amendment of WECC criteria, it is appropriate to reflect that changed value by revising the compensation provided by PacifiCorp to Monsanto. Yet, the Order prevents PacifiCorp from adjusting the compensation for operating reserves when *Monsanto* changes its operations, whether voluntarily or not, in a way that drastically reduces the value of the operating reserves it is supposed to provide. Such a contrary result is not reasonable.

The outage of Monsanto's 67 MW furnace also highlights the inappropriateness of not allowing PacifiCorp to prorate the interruptibility credit to account for the unavailability of that furnace for economic curtailment. Assuming Monsanto's projection is correct, the furnace will not be available for economic curtailment for *half* the month of February. Yet, because PacifiCorp must compensate Monsanto with a fixed discounted demand charge for the right to exercise economic curtailment, Monsanto will receive value for that option *as though* the furnace was actually available for economic curtailment the entire month.

While the outage of Monsanto's 67 MW furnace is an actual situation that highlights the inequity of not being able to reduce the interruptibility credit to account for furnace unavailability, the inequity will be even greater if Monsanto, simply to advance its economic interests, shuts down a furnace. In that case, with respect to operating reserves, PacifiCorp will have to incur the cost of obtaining the operating reserves otherwise, while at the same time compensating Monsanto as though Monsanto was providing the full level of required operating reserves. Similarly, with respect to economic curtailment, PacifiCorp will still need to provide the full value of interruptibility, even though Monsanto is not interrupting load in response to a call by PacifiCorp for economic curtailment. In that situation, Monsanto would be a "free rider," taking benefit from the utility for customer conduct that occurs irrespective of any request or incentive from the utility.

It is no answer to the inequities described above that the issue might be capable of being addressed in the electric service agreement to be negotiated by PacifiCorp and Monsanto. First, there will be a period of time before the parties are able to conclude negotiations on an agreement. During the interim, just as the Company and Monsanto have already experienced, situations may occur which result in PacifiCorp having to pay full value for a level of

interruptibility which Monsanto will not or cannot provide. Second, Monsanto may not agree to contract provisions designed to make PacifiCorp whole for the overpayment of interruptibility credits.[1] In that case, PacifiCorp and Monsanto will again be before the Commission to address the matter in some fashion, which would likely take a number of months to resolve. All the while, Monsanto may have furnaces out of service for one reason or another, not providing the level of interruptibility it is supposed to provide, although it will be receiving full compensation as though it were providing the full level of interruptibility.

PacifiCorp requests that the Commission grant reconsideration regarding this issue, and allow for adjustments related to furnace unavailability so that PacifiCorp's other customers may receive the level of service being paid for. In its Comments, PacifiCorp recommended that the Commission order that the credit for interruptibility be billed as individual credits against the non-discounted demand charge each month for the various types of interruptibility which Monsanto will provide, and that PacifiCorp should also bill all energy to Monsanto at $16.31 per MWh, and all demand at the non-discounted demand charge. PacifiCorp proposed that the credits be set at levels consistent with the total value of interruptibility reflected in the Commission's Proposed Order. In light of the Commission's adoption in the Order of a higher value for interruptibility, the credits proposed by PacifiCorp in it Comments are no longer applicable. To allow for adjustment to account for furnace unavailability, while retaining the discounted demand charge set by the Order, PacifiCorp proposes that on reconsideration, the Commission order that that the demand charge will be adjusted to account for hours of unavailability within the billing month. Specifically, PacifiCorp proposes the demand charge be

[1] Indeed, Monsanto has already expressed its view that it is entitled to the full value of interruptibility even when it cannot provide the full level of interruptibility. See letter from Jim Smith attached to Griswold Affidavit.

adjusted for periods in which the operating reserve capacity of 95 MW and/or the economic curtailment capacity of 67 MW is not available at least ninety-two percent (92%) of the total hours each billing month.[2] Within each billing month, the demand charge of $4.09 per kW-month would be adjusted to reflect the percentage that the actual availability hours within the billing month are below 92 percent, as shown in the formula below. Actual availability for the Reserve Availability Adjustment shall be determined by dividing the sum of (46 MW times actual operating hours for furnace #7 for the month divided by total hours in the month) plus (49 MW times actual operating hours for furnace #8 for the month divided by total hours in the month), by 95 MW. Actual Availability for the Economic Curtailment Availability Adjustment shall be determined by dividing the total actual operating hours for the #9 furnace for the month, by the total hours in the month. If the Actual Availability for either Reserves or Economic Curtailment is calculated to be greater than 92%, the Actual Availability shall be deemed to be 92% and there would be no adjustment to the Monthly Demand Charge. Calculation of the adjustments is as follows:

Reserve Availability Adjustment = (92% - Actual Availability %) * 95MW / South Line Load

Economic Curtailment Availability Adjustment = (92% - Actual Availability %) * 67MW / South Line Load

Monthly demand charge = $4.09 * (1 + Reserve Availability Adjustment + Economic Curtailment Availability Adjustment)

If reconsideration is granted, PacifiCorp will, if determined necessary by the Commission, present evidence as to the appropriate manner of adjusting the demand charge to reflect furnace unavailability for operating reserves and economic curtailment.

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[2] Ninety-two percent is based on the assumption, used in PacifiCorp's valuation of interruptibility, that furnaces #7 and #8 will be available for operating reserve interruption eleven out of twelve months. Tr. 797.

II. System Integrity Interruptions should not be limited to 95 MW.

In the Order, the Commission limited "spinning reserve and system integrity interruptions to 300 hours per year at 95 MW." Order at 12. The limitation of 95 MW for system integrity interruptions is not supported by any substantial evidence and is not reasonable.

PacifiCorp proposed that the entire interruptible furnace load – 162 MW – be subject to system integrity interruptions. Exhibit 10. That proposal was not opposed by Monsanto. Indeed, Monsanto's initial proposal provided for system integrity or "emergency interruptions already provided in the [1995] contract" without limiting those interruptions to 95 MW of load. Tr. 417-418; Exhibit 210. Monsanto subsequently proposed providing up to 1,000 hours of economic interruptibility, without operating reserve interruptibility, but did not change the level for "emergency curtailments." Tr. 427.

Further, the value of interruptibility established by the Commission is based in part on the value proposed by the Company, which, as to system integrity interruptions, is based on the availability of 162 MW, not 95 MW. Exhibits 15, 27. Thus, limiting system integrity interruptions to 95 MW is inconsistent with the level of interruptibility credit determined by the Commission.

For the foregoing reasons, PacifiCorp requests that the Commission, on reconsideration, conclude that the system integrity interruptibility can be used to interrupt Monsanto's entire furnace load, not 95 MW.

III. The Commission should clarify that PacifiCorp should bill all of Monsanto's firm service at the firm service rates approved in the Order.

PacifiCorp delivers electric service to Monsanto over two transmission lines, the "106 Line" and the "109 Line." The 106 Line serves only firm load, and PacifiCorp does not have the capability to interrupt service on that line, without also interrupting service to other customers.

Griswold Affidavit. The 109 Line serves Monsanto's interruptible load. Separate metering exists on the 106 and 109 Lines. Although the 1995 Agreement provided for 9 MW of firm service, Monsanto's load on the 106 Line has actually been higher, exceeding 12 MW in all but one of the months in 2002. *Id.*

Certain language in the Order creates uncertainty with respect to whether the Commission intends PacifiCorp to bill all of Monsanto's firm load at the firm rates set in the Order, or only 9 MW of Monsanto's firm load. PacifiCorp requests that the Commission clarify that *all* of Monsanto's load on the 106 Line shall be billed at the firm rates.

In its findings regarding the issue of system versus situs allocation, the Commission found it "reasonable to continue with the situs allocation of PacifiCorp's 9 MW firm non-furnace load and to apply the Commission-approved *firm rate to such load.*" Order at 6. In the same discussion of findings, the Commission referred to the "remainder of Monsanto's firm" load, which the Commission found should be allocated on a system-wide basis. Further, in its findings regarding the value of interruptibility, the Commission discussed the effective "all-in" energy price resulting from its decision, and stated, "When 9 MW of firm non-furnace load is included in annual revenues at the firm rate, the net annual revenue per MWh is increased to $23.16." Order at 13. These statements by the Commission may indicate that it is considering that although Monsanto does have firm load in excess of 9 MW, only 9 MW will be priced at the firm rates. However, in its findings regarding the cost of firm service to Monsanto, the Commission stated, "These rates and charges reasonably reflect the Company's cost of service to Monsanto going forward. This rate is for firm service only and does not reflect an adjustment or credit for interruptibility." Order at 8. In that instance, the Commission appropriately indicates that the firm rate should apply to firm service generally, without regard to the 9 MW level.

If, contrary to PacifiCorp's understanding, the Order reflects an intention that only firm service up to a 9 MW demand should be billed at the firm rate, PacifiCorp requests reconsideration on that point. There is no evidence in the record supporting a discounted rate for any firm service to Monsanto, and requiring PacifiCorp to bill any amount of firm service at a rate lower than the cost of service approved by the Commission for firm service would be unreasonable.

IV. The Commission should clarify that the true-up mechanism should account for the payments previously made to Monsanto.

The Order requires a true-up initially provided by Order No. 28918: "A true-up mechanism retroactive to the termination date of the existing Agreement will be used to adjust the difference between the existing rate and the new rate." Order at 2. Of course, a true-up which is based on a rate that includes an interruptibility credit will necessarily reflect an assumption that Monsanto could have been interrupted in accordance with the terms of interruption upon which the interruptibility credit was established. Obviously, that ability did not exist in 2002. Absent the ability to implement interruptions during all the months for which the true-up applies, the true-up will therefore effectively result in payment to Monsanto for interruptibility which did not exist. However, PacifiCorp does not contest that aspect of the true-up. The aspect of the true-up on which PacifiCorp seeks clarification is determination of the "existing rate" during those months in 2002 when PacifiCorp was paying Monsanto for operating reserves under separate agreements. As proposed by PacifiCorp, the true-up should be based on the net effective price to Monsanto, recognizing payments it received for operating reserves. Tr. 43.

The separate operating reserve agreements under which payments were made to Monsanto in 2002 are reflected in the record and the Order. Exhibit 5; Tr. 343, 428; Order at 10.

Indeed, the Order expressly recognizes that because of payments received by Monsanto under separate operating reserve agreements in 2000, 2001 and 2002, and an Outage Deferral Agreement (Ex. 6, effective in 2001), "the actual annual energy rate Monsanto paid was considerably less than $18.50, being $17.57 in 2000, $16.61 in 2001, and is expected to be in the same range in 2002." Order at 10. In 2002, two operating reserve agreements were in effect for different periods of the year: The March 1, 2001 agreement (Ex. 5) was in effect during January and February, and the July 2002 agreement was in effect July 9 through September 15. Tr. 343. PacifiCorp made payments to Monsanto under those agreements totaling over $1 million, as detailed in the Griswold Affidavit.

If the true-up were to be made based on an "existing rate" of $18.50 for the months for which PacifiCorp paid Monsanto for operating reserves, PacifiCorp would be compensating Monsanto twice for operating reserves. Such a result is indisputably unfair and unreasonable. To avoid that result, PacifiCorp requests that the Commission clarify that the true-up for those months shall be based on the "existing rate" that results from subtracting the operating reserve payments for those months from the payments made by Monsanto for those months. The respective existing rates for those months under such an approach are shown in the Griswold Affidavit.

CONCLUSION

WHEREFORE, PacifiCorp respectfully requests that the Commission grant reconsideration and clarification as described above.

DATED: February 17, 2003

STOEL RIVES LLP

James F. Fell
John M. Eriksson

Attorneys for PacifiCorp

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing **PACIFICORP'S PETITION FOR RECONSIDERATION AND CLARIFICATION OF ORDER NO. 29157** to be served upon the following by United States mail, postage prepaid, at the addresses indicated on February 18, 2003:

Scott Woodbury
Deputy Attorney General
Idaho Public Utilities Commission
472 W. Washington Street
Boise, ID 83702-5983

Eric Olson
Racine, Olson, Nye, Budge & Bailey
201 E. Center
Pocatello, ID 83204-1391

James R. Smith
Monsanto Company
P.O. Box 816
Soda Springs, ID 83276

Randall C. Budge
Racine, Olson, Nye, Budge & Bailey
201 E. Center
Pocatello, ID 83204-1391

Nancey Hammond

AFFIDAVIT OF BRUCE GRISWOLD

STATE OF OREGON)
: ss.
COUNTY OF MULTNOMAH)

Bruce W. Griswold, being duly sworn, deposes and states as follows:

1. I am the Director, Energy Contracts, at PacifiCorp.

2. On January 29, 2003, PacifiCorp advised Monsanto that it was designating 95 MW of Monsanto's furnace load for operating reserves.

3. On January 30, 2003, Monsanto advised PacifiCorp that it had experienced an outage of its 67 MW furnace and that Monsanto could not interrupt both the remaining furnaces because it needed to keep at least one furnace operating for Monsanto's kiln. Monsanto also advised PacifiCorp that the furnace (furnace #9) would be out of service for as many as 15 days.

4. Attached hereto is a true and correct copy of a letter from Monsanto to me related to the furnace outage and operating reserve requirements.

5. PacifiCorp delivers electric service to Monsanto over two transmission lines, one being referred to as the "106 Line" or "North Line" and the other being referred to as the "109 Line" or the "South Line." The 106 Line serves only firm load, and PacifiCorp does not have the ability to interrupt service on that line without also interrupting electric service to other customers. The 109 Line serves Monsanto's interruptible load. In 2002, Monsanto's load on Line 106 exceeded 12 MW in all months except August.

6. Pursuant to an operating reserve agreement entered into with Monsanto, dated March 1, 2001, PacifiCorp made payments to Monsanto for the months of January and February, 2002 in the amount of $115,000 for each month. Pursuant to an operating reserve agreement with Monsanto, dated July 9, 2002, PacifiCorp made payments to Monsanto in the amounts of

$187,533.60, $436,713.71, and $237,500.00, for the months of July, August and September, 2002, respectively.

7. When the amounts stated in paragraph 6 above are deducted from payments made by Monsanto for electric service during the respective months, the effective rate for electric service to Monsanto, calculated by dividing the net payment for a month by the kilowatt hours delivered to Monsanto during the respective month, are as follows: January: $17.68 per MWh; February: $17.53 per MWh; July: $16.61 per MWh; August: $14.64; September: $16.54.

The foregoing is true and correct to the best of my knowledge and belief.

DATED February 13, 2003.

Bruce W. Griswold

Subscribed and sworn to before me this 13 day of February, 2003.

NOTARY PUBLIC
Residing at: Multnomah county

My Commission Expires:
8/19/03

OFFICIAL SEAL
LORI J ADAMS
NOTARY PUBLIC-OREGON
COMMISSION NO. 326385
MY COMMISSION EXPIRES AUG 19, 2003

To: Jim Fell / John Erickson / Walt Sinclair

356 8801

MONSANTO
Soda Springs, Idaho Plant

1853 Highway 34
Post Office Box 816
Soda Springs, Idaho 83276-0816
Phone: (208) 547-4300
Fax: (208) 547-3312

February 4, 2003

Bruce Griswold
PacifiCorp
825 N.E. Multnomah
Portland Or. 97232
Transmitted Via Fax: 503-813-5512

Subject: PacifiCorp letter regarding obligation to provide operating reserves per PAC-E-01-16

Dear Bruce:

This replies to your January 31, 2003 letters. The first deals with the 95 MW of operating reserves which Monsanto provides to PacifiCorp pursuant to IPUC's Final Order No. 29157. The second letter, also dated January 31, 2003, was received February 3, 2003, with the invoice of the same date for the month of January 2003.

First, let me clarify my discussions with Brent Barker, our Account Manager, on January 29, 2003. During our discussions, we agreed that the new rates under the Final Order No. 29157 dated January 27, 2003, would be billed to Monsanto effective January 1, 2003. We also agreed that PacifiCorp could also begin using at the same time the operating reserves limited to 300 hours per year at 95 MW. We further agreed that until the new contract has been approved by the Commission, we would utilize the last Operating Reserve Agreement in effect, which was dated July 9, 2002, to govern the operating procedures. Accordingly, I instructed Monsanto's operators to follow the procedures in the last Operating Agreement dated July 9, 2002, for purposes of handling operating reserve requests from PacifiCorp.

Mr. Barker further indicated that PacifiCorp did not plan on exercising economic curtailment until the summer. Accordingly, we agreed that those details need not be addressed now, as they would be handled in the new contract.

The next day the plant operators indicated that the Number 9 Furnace was being shut down for maintenance and overhauls estimated to take 12 days. I immediately called Mr. Barker and notified him of the shutdown. The July 9, 2002 Operating Agreement we are operating under addresses this problem in Section 9, which states:

> "PacifiCorp acknowledges that the electric phosphorus furnaces at P4 will be removed from service from time to time during the terms of this agreement for maintenance and overhauls. P4 will provide PacifiCorp notice by telephone with follow up fax of expected maintenance schedules and delays, including scheduled time of interruption, duration, and electrical load of corresponding furnace. P4 will also inform PacifiCorp by telephone or fax prior to restoring electrical power to a furnace after such a delay. If two of P4's furnaces are simultaneously unavailable due to maintenance or overhaul and/or interruption by PacifiCorp due to other agreements, P4 shall have no obligation to curtail load and PacifiCorp shall be relieved from its obligations to pay during such maintenance period."

While this language may or may not be included in the new contract, it is in fact what Mr. Barker and I agreed to use until the new contract is in place.

As I understand Order No. 29157, the Commission approved a credit value of 7.48 mills/kWh for "spinning reserve and system integrity interruptions up to 300 hours per year at 95 MW and economic interruptions to 500 hours per year at 67 MW." (Order p. 12) The Order also states:

> "3. We reject PacifiCorp's proposal to revise the method for calculation of monthly credits for interruptible/curtailment options to reflect the monthly availability of furnace load." (Order p. 2)

As you acknowledged in your second January 31 letter, "the Order does not provide the ability to pro-rate the interruptibility credit." Obviously, while Monsanto's furnace is down, PacifiCorp has that power that can be used to meet operating reserves or to sell to other customers at a profit.

Monsanto agrees to the demand charge and energy charges, but does not agree to the power factor charge as set forth in the February 3, 2003 Invoice. The Order does not provide for any power factors charge. Nor would a charge be incurred if one uses total metered power.

I trust this clarifies our position. If you have any questions, please don't hesitate to call me.

These things underscore the importance of us working towards a new contract without delay. We are prepared to meet with you for this purpose as soon as possible.

Sincerely,

James R. Smith
JRS:rr

bc: Daniel J. Schettler
Randall C. Budge