March 31, 1999

Allen R. Duckett
Vice President
Operations/Chief Pilot
PacifiCorp Trans, Inc.
7908 N.E. Airport Way
Portland, Oregon 97218

Dear Mr. Duckett:

This is in response to your letter of March 22, 1999, to Kemper Hall, Federal Aviation Administration, Hillsboro, Oregon. In your letter, you requested our opinion regarding the proposed receipt of compensation by PacifiCorp for the transportation of employees of Scottish Power. In subsequent conversations, you have explained to me that PacifiCorp Trans, Inc. is a corporation that is owned by a parent corporation, PacifiCorp. The primary business of PacifiCorp is the production of energy. The primary business of PacifiCorp Trans, Inc. is to provide transportation services to PacifiCorp, its parent organization. Scottish Power is a separate corporation, which is in the process of purchasing PacifiCorp. You note that employees of Scottish Power are being carried on aircraft operated by PacifiCorp Trans, Inc. on matters involving the purchase of PacifiCorp by their employer. You ask whether PacifiCorp may recover the costs of transporting Scottish Power employees under section 91.501 of the regulations.

In our opinion, it would not be acceptable for PacifiCorp or PacifiCorp Trans, Inc. to charge Scottish Power for transportation of its employees on aircraft operated by PacifiCorp Trans, Inc. In pertinent part, the Regulations state that certain operations, which normally must be conducted under Parts 121 or 135 of the Regulations, may be conducted under Part 91. Those operations include:

"Carriage of officials, employees, guests, and property of a company on an airplane operated by that company or the parent or a subsidiary of the company or a subsidiary of the parent, when the carriage is within the scope of, and incidental to, the business of the company (other than transportation by air) and no charge, assessment or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane, except that no charge of any kind may be made for the carriage of a guest of a company, when the carriage is not within the scope of, and incidental to, the business of that company." [See FAR 91.501(b)(5)]

Inasmuch as the business of PacifiCorp Trans, Inc., involves the transportation by air of persons and property, it is our opinion that it would not be acceptable for any charge to be made for

that transportation. Of course, charges could be sought if PacifiCorp Trans, Inc. was certificated under Part 121 or 135 of the Regulations.

You have also asked me to address the regulatory impact if PacifiCorp Trans, Inc., was dissolved and its flight operations assumed by the parent corporation, PacifiCorp. It is our understanding that the primary business of PacifiCorp is not transportation by air. Therefore, PacifiCorp would be allowed to charge its guests for their pro rata share of the cost of owning and operating the aircraft, if the flights were within the scope of, and incidental to, PacifiCorp's business. In our opinion, the sale of that business would be considered incidental to that business and travel to facilitate that sale would be considered within the scope of and incidental to, that business.

Please let me know if I can provide any further assistance to you and your company. Sincerely,

John J. Callahan
Deputy Regional Counsel