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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of  
PacifiCorp for an Investigation of  
Inter-Jurisdictional Issues

**DRAFT ORDER**

Docket No. 02-035-04

By the Commission:

On March 5, 2002 PacifiCorp filed an Application to initiate an investigation of various issues that effect PacifiCorp as a consequence of its status as a utility that serves in multi jurisdictions. On March 11, 2002 the Commission issued a Notice of Application and requested comments. In addition the March 11<sup>th</sup> Notice established a variety of other dates for fillings.

In its Application PacifiCorp asks this Commission to establish a multi-state forum to address the inter-jurisdictional issues raised by the company. The company proposes that this multi-state forum be divided into two phases. The first phase would be an attempt to reach a consensus among the states on multi-jurisdictional issues. The second phase would be to build a record on those issues where consensus could not be reached. PacifiCorp proposes to retain what they call a "Facilitator/Special Master" to conduct both phases of this multi-state process. In its

Application the company proposes a detailed schedule of meetings and a final report date in October. At that point each state would have its own proceeding to address issues from the multi-state process.

On March 22, 2002 the Division of Public Utilities filed comments on PacifiCorp's Application. The Division's comments can be summarized as follows:

1. The DPU supported a multi-state attempt to address inter-jurisdictional issues but did not support the adoption of the schedule presented by the Company. The DPU suggested that only the initial dates of April 10-12 in Boise be established by the Commission and that the multi-state forum establish any other dates.

2. The DPU believes that the emphasis of this proceeding, at least at this time, should be on consensus. Sufficient time should be allowed to develop a consensus which the DPU did not believe existed under the company's proposed schedule.

3. The DPU had no objection to the selection process suggested by the company for a Facilitator/Special Master for the consensus building phase of this proceeding. It believed that different skills exist for a Facilitator vs. a Special Master and urges the Commission to reserve the right to address the process for Phase 2 of this proceeding later.

PacifiCorp has put forth the following issues they believe should be addressed in this proceeding. These are:

1. What changes, if any, are required in current Utah law and regulatory practice in order to assure that PacifiCorp will have a reasonable opportunity to recover prudently-incurred

costs associated with investments in generation and transmission resources notwithstanding any future change in state policies?

2. What changes, if any, are required in the manner in which PacifiCorp's Revenue requirement is calculated in order to accommodate different generation resource investment policies in different states?

3. What alternatives exist for allocating the costs of PacifiCorp's existing generation and transmission resources among states and which of these alternatives is most equitable?

4. What alternatives exist for reallocating existing resources in the event of: (a) direct access, (b) sale or purchase of service territory or (c) closure of a major industrial facility and which of these alternatives is most equitable?

5. What alternatives exist for allocating the costs of PacifiCorp's future generation and transmission resource additions among states and which of these alternatives is most equitable?

6. What alternatives exist for permitting different states to make different decisions regarding potential new generation additions and which of these alternatives is best adapted to preserving economic efficiencies?

7. What are the potential revenue requirement consequences of different methods of allocating the costs of PacifiCorp's existing generation and transmission resources among its state jurisdictions?

8. What are the potential revenue requirement consequences of different methods of allocating the costs of PacifiCorp's future resource additions among its state jurisdictions?

9. What policies should this Commission and other state commissions that regulate PacifiCorp adopt in order to afford PacifiCorp a reasonable opportunity to recover all of its prudently-incurred costs of existing and future generation and transmission resource investments?

The DPU has no objections to addressing these issues but indicates that there may be other issues that should also be address and therefore does not ask this Commission to adopt those as issues. We will not do so.

After reviewing the Application and the comments the Commission will establish this docket to address inter-jurisdictional issues and endorses the use of a Facilitator/Special Master to determine to what extent a consensus can be reached among the states. If additional comments are required prior to a phase 2 the Commission will hear these comments at that time.

The MSP will be managed by an independent Facilitator/Special Master. PacifiCorp states that it has solicited recommendations from interested parties as to who might be designated. PacifiCorp nominated an individual to serve as Facilitator/Special Master on March 15, 2002. If, prior to March 29, 2002, one or more states accounting for more than 25 percent of PacifiCorp's retail revenues ("Opposing Percentage")<sup>1</sup> give notice to PacifiCorp that they object to PacifiCorp's proposed Facilitator/Special Master, the MPS schedule will be suspended until

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<sup>1</sup>The Company states that an Opposing Percentage would be represented by either Utah or Oregon or a combination of Wyoming and Washington together with either Idaho or California. Stakeholders in each State will independently determine whether an objection should be made on behalf of their State. If a suspension occurs because a Facilitator/Special Master is not designated by March 29, 2002, PacifiCorp expects that there would be a corresponding slippage in each of the MSP procedural milestones set forth in the balance of this Order.

either: (a) a Facilitator/Special Master is proposed by PacifiCorp who is not objected to by states representing an Opposing Percentage or (b) PacifiCorp gives notice that it wishes to terminate the MSP because it does not believe that a consensus can be achieved on designating a Facilitator/Special Master.

PacifiCorp requests that parties wishing to participate in the MSP provide notice to that effect to PacifiCorp as soon as practicable so that they can be included on the distribution list for the MSP. Additionally, no later than April 5, 2002, interested parties should forward to PacifiCorp any briefing papers or any other information that they wish to be reviewed by the Facilitator/Special Master in advance of the MSP.<sup>2</sup>

All meetings of the MSP will be open to all interested parties. Facilities will be provided that permit participation by telephone.

During the course of the MSP we expect a variety of reports to be filed by the Facilitator/Special Master with this Commission and other state Commissions. The Reports will: (a) describe the results of the meetings among the states including the extent of any material consensus that was achieved among Commission staffs/Utah DPU and other interested parties as well as a the views of other parties; (b) if and when there is a phase 2 provide the record of phase 2 including any recommendations that the Facilitator/Special Master may have. Both the

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<sup>2</sup>The Company's Application states that any requests to be added to the MSP distribution list or materials for review by the Facilitator/Special Master should be e-mailed to Sue Rolfe ([Sue.Rolfe@PacifiCorp.com](mailto:Sue.Rolfe@PacifiCorp.com)) Or mailed to Sue Rolfe at PacifiCorp (Suite 300, 825 NE Multnomah, Portland, Oregon 97232). PacifiCorp intends to maintain a public website on which all MSP documents will be posted so as to avoid a requirement that parties serve materials on each other.

procedures to be followed in Phase 2 and the issues to be addressed will be determined by the Facilitator/Special Master with review by this Commission, if needed. Any procedures for Phase 2 must be consistent with state law.

Although the company proposed a detailed schedule with the process ending in October, we will not adopt that schedule except to the extent to establish the April 10-12 meetings in Boise. Additional Utah specific technical conferences can be scheduled by the Utah parties as needed. PacifiCorp proposes specific dates for Utah workshops to keep the Commission advised of the process. We support those types of workshops but will leave establishing those dates up to the DPU.

6. At the Organizing Meeting, the Facilitator/Special Master, after soliciting the views of the parties, will: (a) describe how the settlement meetings will be organized around particular issues, (b) establish locations for further meetings, (c) develop a schedule, (d) establish analytical requirements of the process and (e) determine whether it would be helpful to establish a “Stakeholders Committee” to work with the Facilitator/Special Master on procedural matters.

We hereby endorse the process as outlined in the Company’s Application and as modified herein. Nonetheless, it should be clear to all concerned that this Commission is committed to taking actions that it deems to be in the public interest of Utah. We will independently review the record assembled in the MSP and additional evidence that may be offered in this investigatory docket and make our decisions accordingly. Any position taken by any representative of Utah in the MSP will not be binding on this Commission.

**ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. PacifiCorp's Application to Initiate Investigation of Inter-Jurisdictional Issues is granted and approved as modified herein;

2. The Commission encourages the Division of Public Utilities and other interested parties from Utah to participate in the MSP as outlined in the Application.

In compliance with the Americans with Disability Act, individuals needing special accommodations, including auxiliary communications aids and services, during any conference or hearing in this docket should notify Julie Orchard, Commission Secretary, 160 East 300 South, Room 400, Box 45585, Salt Lake City, Utah 84145-0585, telephone (801) 530-06713, at least three working days in advance of the conference or hearing.

DATED at Salt Lake City, Utah, this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
/s/Stephen F. Mecham, Chairman

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/s/ Constance B. White, Commissioner

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/s/ Richard M. Campbell, Commissioner

Attest:

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/s/ Julie Orchard, Commission Secretary