

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)
PACIFICORP for an Exemption Under)
Subsection 54-4-31(4) of the Utah Code)
Annotated

DOCKET NO. 00-035-16
REPORT AND ORDER

ISSUED: February 23, 2001

SYNOPSIS

No detriment to the public interest appearing, the Commission granted the exemption sought by the Applicant with certain conditions.

By the Commission:

PROCEDURAL HISTORY

On December 4, 2000, PacifiCorp (Applicant) filed its pleading seeking exemption from the provisions of Subsection 54-4-31(1), U.C.A. 1953, as amended. The section relates to the issuance of securities and the assumption of obligations and liabilities as guarantor, endorser, surety, or otherwise, for any security of another person relating to the financing of pollution control revenue bonds. Applicant prayed that such exemption remain in effect so long as the senior secured debt of the Applicant has investment grade ratings from at least two nationally-recognized rating agencies, except that as to short-term securities of the Applicant, the exemption remain in effect for 60 days thereafter. The Application was filed pursuant to Subsection 54-4-31(4), U.C.A. 1953, as amended, under which Applicant avers that the Commission has jurisdiction to grant the exemption sought.

Applicant noted that the Commission had previously granted such an exemption in Docket No. 98-2035-02, but that said exemption was effectively terminated in connection with the Commission's approval of the ScottishPower merger in Docket No. 98-2035-04.

The matter was referred to the Division of Public Utilities, Utah Department of Commerce (DPU), for review and recommendation, and the DPU filed its memorandum recommending approval February 6, 2001. The DPU's memorandum is annexed hereto and incorporated herein by this reference as Appendix A. The Administrative Law Judge, having been fully advised in the matter, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT

- The Commission has jurisdiction pursuant to Subsection 54-4-31(4), Utah Code Annotated, 1953, as amended, 1997.
- The Company is an Oregon corporation, having its principal administrative office at Portland, Oregon. It is qualified to do business in the State of Utah with its principal place of business in Salt Lake City.
- The Company has requested that the Commission exempt the Company from the provisions of Subsection 54-4-31(1) of the Utah Code Annotated pursuant to the authority granted to the Commission under Subsection 54-4-31(4). Subsection 54-4-31(4) of the Utah Code Annotated, among other things, authorizes the Commission to exempt any electrical corporation from the provisions of Subsection 54-4-31(1) of the Utah Code Annotated if the Commission finds that the application of such provisions, to such electrical corporation, is not required by the

- public interest. The Commission may grant any such exemption on such terms and conditions as it may prescribe.
- The application of Subsection 54-4-31(1) of the Utah Code Annotated to the Company is not required by the public interest. The Commission retains the ability to monitor the securities transactions of the Company and to determine the appropriate regulatory treatment of such transactions in subsequent proceedings. Accordingly, the request of the Company should be granted, subject to conditions as prescribed below. Such conditions will assure that the Commission and its staff shall remain apprised of the financing activities of the Company and that the Company will have access to the capital markets during the term of the exemption.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- The Company is hereby exempted from the provisions of Subsection 54-4-31(1) of the Utah Code Annotated, 1953, as amended, 1997, subject, nevertheless, to the following conditions.
- The exemption granted hereby shall remain in effect so long as the senior secured debt of the Company has investment grade ratings from at least two nationally recognized rating agencies; except that as to short-term securities of the Company, the exemption shall remain in effect for 60 days after the date fewer than two nationally recognized rating agencies so rate the senior secured debt of the Company.
- The Company shall file quarterly reports of its financing activities substantially in the form submitted with the application of the Company in this matter and shall file monthly regulatory financial and operating statements as Applicant committed to do in the ScottishPower merger proceeding. Such monthly reports shall be filed not later than two months after the end of each month. As part of the quarterly reports required above, Applicant shall include any write-ups or analyses from major bond rating agencies, indicating any changes in bond rating or potential changes. Applicant shall likewise include the issuance expenses associated with each new issue.
- The issuance of this Order does not constitute the determination of the Commission of any utility rate making issues whatsoever, which issues are expressly reserved for decision until they are presented to the Commission in appropriate proceedings.
- The issuance of this Order shall also not be construed as prior acceptance by the Commission of any expenditures of the Company for any purpose.
- Nothing in this Order shall be construed to obligate the State of Utah to pay or guarantee in any manner whatsoever any security issued, assumed, or guaranteed by the Company.
- The exemption herein granted in no wise affects the Commission's jurisdiction in Docket No. 00-035-15, nor its jurisdiction over any other restructuring, reorganization, or merger transaction.
- This Order is entered on a tentative form, pursuant to Rule 110. Any person may file a protest hereto within 20 days from the date of issuance, or thereafter be barred from doing so. Should the Commission find such protest to be meritorious, the effective date shall be suspended by subsequent order pending further proceedings.

DATED at Salt Lake City, Utah, this 23rd day of February, 2001.

/s/ A. Robert Thurman
Administrative Law Judge

Approved and Confirmed this 23rd day of February, 2001, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

APPENDIX A

[Division Letterhead]

To: Utah Public Service Commission

From: Division of Public Utilities
Ric Campbell, Director
Lowell Alt, Manager
Judith Johnson, Technical Consultant
Ron Burrup, Technical Consultant

Date: February 5, 2001

RE: Application of PacifiCorp for an Exemption Under UCA 54-4-31(4)

Docket 00-035-16

Issue:

PacifiCorp has requested an order from the Commission granting exemption from the requirements of UCA 54-4-31(4). The Commission previously granted exemption in Docket 98-2035-02, but required the company to apply for approval for issuance of debt in the ScottishPower merger case Docket 98-2035-04. In the merger stipulation PacifiCorp agreed to wait at least 12 months after the merger before seeking renewal of the waiver. The 12 month waiting period expired the end of November 2000.

Recommendation:

The Division recommends that the exemption be granted by the Commission with the following three conditions included in the order.

1. This exemption will not affect the Commission's jurisdiction over matters covered by Docket No. 00-035-15 or its jurisdiction over any other restructuring, reorganization or merger transaction.
2. Timely financial information from PacifiCorp is essential for the Division of Public Utilities to adequately perform its statutory responsibilities. In the ScottishPower merger docket, PacifiCorp committed to continue filing monthly Regulatory Financial and Operating Statements. These reports contain vital income statement and balance sheet information. In addition they provide the latest information on debt and preferred stock issuances. As part of this exemption approval the Commission should require PacifiCorp to file monthly Regulatory Financial and Operating Reports with the Commission and Division of Public Utilities no later than two months after the end of each month.
3. The Division also recommends that the Commission require PacifiCorp to file the following information as part of its quarterly reports. PacifiCorp should include any write-ups or analysis from major bond rating agencies, indicating any changes in bond rating or potential changes. PacifiCorp should also include the issuance expenses associated with each new issuance.

With these conditions, the Division believes that the exemption is in the public interest. The exemption will reduce administrative burdens on the Commission, the Division, and the company. The quarterly reports, in conjunction with the monthly reports, will provide adequate and timely information on the company's securities transactions.

cc: Michael Ginsberg

PacifiCorp. Attn: Doug Larson

PacifiCorp. Attn: Bruce N. Williams, Treasurer