

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of PACIFICORP)
for Approval of an Electric Service Agreement)
with Praxair)

DOCKET NO. 01-035-34

ORDER APPROVING
SERVICE AGREEMENT

ISSUED: January 29, 2002

By the Commission:

On November 5, 2001, PacifiCorp submitted an Application seeking approval of a service agreement (Agreement) with Praxair. The Agreement provides for the provision of firm power electric service over a term not exceeding five years. On November 8, 2001, a Protective Order was issued to facilitate the exchange of information and evidence, some of which was deemed confidential by some of the participants in these proceedings.

On December 21, 2001, the Division of Public Utilities (DPU) submitted a Memorandum providing the DPU's analysis and recommendations concerning the Agreement. On January 4, 2002, the Committee of Consumer Services (CCS) submitted a Memorandum providing the CCS' recommendations concerning the Agreement.

In the December 21 Memorandum, the DPU sets forth the criteria by which it evaluated the Agreement. The DPU recommends that the Agreement be approved. It analyzes the reasons for entering into a special contract with Praxair and the provisions of the Agreement. The DPU concludes that the Agreement's terms, conditions, and pricing are reasonable. In its January 4 Memorandum, the CCS does not recommend approval of the Agreement. The CCS raises two concerns which the CCS states could be overcome through conditions attached to Commission approval of the Agreement. The first CCS concern questions whether the Agreement should address the recovery of costs which might occur if Praxair were to terminate service from PacifiCorp, specifically through some future retail open access statute. The second CCS concern is the application of possible surcharges which the Commission may impose on electric service, through determinations and orders issued on other proceedings.

In considering the information and evidence submitted by the parties in this docket, we conclude that the Agreement's terms, conditions and prices are just and reasonable; the Agreement can be approved. We believe that the Agreement provides appropriate compensation for the electric service to be provided by PacifiCorp. As we concluded in approving a service agreement with Kennecott Utah Copper, in Docket No. 01-035-30, issues associated with a possible, future departure of Praxair are better addressed if, and when, that situation is presented. We believe the resolution of issues associated with the economic consequences of retail access (upon PacifiCorp, its remaining customers, and departing customers) need not be addressed in approving the Agreement. We believe that the resolution of such issues is better done when the parameters of a future retail access regime have more definitive form than now, when it is simply a concept.

As in Docket No. 01-035-30, we also do not need to directly address the surcharge application to future service provided to Praxair. The determination of the appropriate basis for surcharges, the surcharge amounts, how such surcharges may be imposed and upon what customers such surcharges are appropriately placed will be determined in the proceedings directly addressing such surcharges. As we stated in Docket No. 01-035-30, our approval of the Agreement, without the condition requested by the Committee, does not mean that appropriate surcharge(s) could not be imposed upon future service provided to Praxair during the term of the Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Agreement submitted by PacifiCorp for electric service to Praxair is approved.

2. Within 20 days of the issuance of this order, an aggrieved party may file a written request for reconsideration by the Commission. Such request may be denied in writing or may be deemed denied by failure to grant reconsideration within 20 days. An aggrieved party may seek appellate review only of such ground(s) as set forth in the request for reconsideration.

DATED at Salt Lake City, Utah, this 29th day of January, 2002.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

G#28004