

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)
PACIFICORP for a Certificate of Convenience)
and Necessity Authorizing Construction of a)
Resource Addition)

DOCKET NO. 01-035-37
REPORT AND ORDER

ISSUED: January 31, 2002

SYNOPSIS

The Commission grants a certificate of public convenience and necessity authorizing PacifiCorp to construct a 120-megawatt resource addition at the Gadsby plant site consisting of three 40-megawatt gas-fired generating units.

APPEARANCES

Edward A. Hunter Stole Rives LLP	For	PacifiCorp
Michael Ginsberg Assistant Attorney General	"	The Division of Public Utilities
Reed Warnick Assistant Attorney General	"	The Committee of Consumer Services
Clark Waddoups Steven J. Christiansen Parr Waddoups Brown Gee & Loveless	"	Desert Power, L.P.
Lee Brown	"	Magnesium Corporation of America
Daniel Jensen	"	Pioneer Power Company, LLC

PROCEDURAL HISTORY

On December 12, 2001, PacifiCorp (Company) filed an Application asking the Commission to grant a certificate of convenience and necessity authorizing construction of a 120- megawatt (MW) resource addition consisting of three 40-MW gas-fired generating units at an estimated total cost of \$80.4 million. The Application was supported by the testimony of Janet Morrison, Director, Resource Planning, on the Company's load and resource balance and the need for additional resources; J. Rand Thurgood, Managing Director of Resource Development, on the basis for selection, timing and cost of the resource addition; and Jeff Huggins, Vice President and Principal Financial Officer, on financing the resource addition. A Motion for Entry of Protective Order was also filed by PacifiCorp on this date. The Protective

Order was issued by the Commission on December 14, 2001.

On January 4, 2002, Notice of Scheduling Conference, to schedule and consider procedures, was issued by the Commission, setting the conference for January 11, 2002. At the hearing, a proposed schedule was presented by counsel for PacifiCorp requiring the recommendations of the Division of Public Utilities (Division) and the Committee of Consumer Services (Committee) to be filed on January 18, 2002, and a hearing in the matter to be held on January 24, 2002. The Commission adopted the schedule in its Procedural Order issued January 19, 2002.

Petitions for Leave to Intervene were filed on January 16, 2002, by United Association Plumbers and Steamfitters, Local 19; on January 18, 2002, by Magcorp (containing preliminary comments); by Desert Power, L.P. (together with preliminary comments, Motion for Expedited Ruling on the Petition of Desert Power, L.P. to Intervene and for a Continuance, and Memorandum of Points and Authorities in Support of Motion For Expedited Ruling); and by Pioneer Power company, LLC (together with Motion for Expedited Ruling on the Motion Of Pioneer Power, and Motion and Memorandum of Points and Authorities in support of Motion For Expedited Ruling). On that date a letter was filed under the signature of Darren D. Menlove, asking to be placed on the agenda to inform the Commission of problems neighbors expected with the addition of new generation at the Gadsby plant site. At hearing it became apparent that Mr. Menlove's difficulties arose from the activities of a PacifiCorp lessee, not the Gadsby plant, and should be reviewed separately.

On January 18, 2002, the Division filed a memorandum containing its analysis of the Application and its recommendation to the Commission. The memorandum provided the basis for the verbal testimony of Rebecca Wilson, Division Technical Consultant. The Committee's analysis and recommendation was filed on January 18, 2002. Cheryl Murray, Utility Analyst, and Randall J. Falkenberg, Committee consultant, testified in support of the Committee's position.

PacifiCorp's Response to Motion to Intervene of Pioneer Power and to that of Desert Power was filed on January 22, 2002. Its responses to Petition to Intervene of Magcorp and to Motions for Continuance of Desert Power and Pioneer Power were filed January 23, 2002. The Reply of Desert Power was also received on that date.

The hearing was held January 24, 2002, at which time testimony and evidence were received, and witnesses cross examined. The Commission heard oral argument on petitions to intervene, and limited intervention was granted. This decision was memorialized by written order issued January 28, 2002, granting intervention to Magcorp, Desert Power, Pioneer Power, and United Association Plumbers and Steamfitters Local 19, based on argument, discussion, and decisions reached at the hearing. Leave to intervene was granted on a limited basis "excluding issues associated with their respective bids or issues associated with their efforts to have PacifiCorp purchase power from them." These issues may be addressed in another docket. On this date, supplemental comments of Desert Power were filed, prompting PacifiCorp's Response filed January 29, 2002.

Written comments of Eric C. Guidry for the Land and Water Fund of the Rockies were received January 29, 2002, those of Jeff Burks, Energy Policy Coordinator, Utah Department of Natural Resources, on January 30, and of Kathy Van Dame for the Wasatch Clean Air Coalition, on January 30, 2002.

POSITION OF THE PARTIES

PacifiCorp states that the present and future public convenience and necessity requires construction of the proposed resource addition. The Company explains that circumstances affecting its load - resource balance, including a decade of load growth and particularly rapid growth in areas including Utah's Wasatch Front require the addition of new resources. The Company has determined that construction of a 120-MW plant consisting of three 40-MW gas-fired generating units at the Gadsby location, to be operated as a peaking facility, best addresses load and resource requirements. The Company testifies that it has entered into a contract with GE Packaged Power, Inc., for plant construction, has obtained or will obtain all necessary permits, such as air quality, to both construct and operate the plant, and is fully capable of properly financing the project.

Based upon its analysis of the Application, the Division recommends issuance of the certificate of convenience and necessity conditioned by receipt of evidence that all required permits have been secured. Although construction of the

Gadsby resource addition cannot alone overcome what the Company identifies as, and the Division acknowledges is, a growing imbalance between summer peak load requirements and resources to meet it, the Division testifies that the proposed additional units at Gadsby will promote resource diversity, add voltage support, increase reliability, and reduce the risk associated with reliance on wholesale market purchases. These advantages, which the Division notes have value over the life of the project, raises in its estimation the Gadsby addition above the other alternatives examined on this record.

The Committee recommends approval of the Application subject to certain conditions. First, the approval of a certificate does not preclude future analysis of a wider range of alternatives than permitted in this expedited proceeding in order to confirm that the Gadsby addition is the least-cost course of action. Second, parties must be able to audit the total installed cost of the project in order to recommend proper cost recovery. Third, additional costs, if incurred for failure to bring the project on line by Summer 2002, the time proposed by the Company, should not be assured recovery. Fourth, approval of a certificate should imply nothing about cost allocation or rate treatment. Fifth, parties must be able to examine the resource addition throughout its life in order to determine whether it is used and useful. Finally, the Company must take reasonable and timely steps to address load and resource imbalances so that applications like the present one requesting expedited approval and consequent limited investigation are avoided.

DISCUSSION, FINDINGS AND CONCLUSION

Based on Company forecasts, analysis of the summer peak period shows resources are insufficient to meet its load obligations, and that this deficiency rises from 439 MWa today to 1262 MWa by 2009. During the winter peak period, resources are insufficient to meet load beginning in 2004 by 57 MWa, rising to over 400 MWa by 2009. The Division and the Committee concur in the Company's assessment and in the conclusion that the resource deficit is growing. It is therefore clear on this record, and we so find, that the Company faces a rapidly growing load and a corresponding shortage of resources to meet it.

Load, as defined by the Company and accepted by the parties, is the total of firm retail and long-term firm wholesale sales. The Division analyzed the requirements of past certificates issued in this jurisdiction to arrive at its conclusion that load includes these two components. We note, however, that these certificates were issued years ago under much different circumstances. In the past, long-term wholesale sales were undertaken by the Company as the efficient way of responding to the fact that plant units come on line in increments that are large relative to the pattern of demand growth. This often created a resource surplus which then could be sold in the wholesale market. Wholesale sales therefore were included in the determination of utility load. Today, as the Commission determined in general rate case Docket No. 01-035-01, wholesale market transactions have been undertaken by the utility as an independent business opportunity beyond service to its retail customers, making it far less clear that all long-term wholesale sales load is properly considered utility load. Our conclusion herein that load growth is sufficient to support the addition of the resources proposed by the Company should not be read in a manner contrary to that determination. Rather, the present record clearly reveals a gap between load and present and expected future resources sufficiently large to require a resource addition to meet legitimate public utility purposes.

The Division's analysis of the resource deficit is particularly instructive. While acknowledging the lack of a current integrated resource plan, the Division nonetheless employs the Company's integrated resource planning model, which it believes useful for the purposes of this Docket, to trace the implications of alternative resource purchases or investments. The Division also examines the economic analyses presented by Company management to its Board of Directors, which led to the Directors' October 24, 2001 decision to approve management's proposed Gadsby project. These analyses enable the Division to conclude that the need for additional resources of the proposed sort is both real and significant.

We note that the Company's load and resource analysis is affected by the existence of transmission constraints. The implications of this constraint with respect to the alternatives available to the Company to close the gap between load and resources are not fully examined on the record. In addition, a current and acceptable integrated resource plan is not in hand, and this, as we have elsewhere found, suggests an incomplete consideration of demand side resources (See Report and Order, Docket No. 01-035-01, Reconsideration of DSM Issues, issued October 29, 2001). Taken together, these factors raise a question whether the relevant alternatives have been analyzed on this record. We cannot resolve this

question and do not believe we must do so herein because the issue raised is not whether the proposed resource addition is necessary and appropriate, but whether the Company's overall resource portfolio is optimum.

The recommendations to approve the project made by the Division and the Committee in the context of their analyses of loads and resources lead us to this conclusion. The Committee's particular comment on this point is that its analysis is not to be construed as a comment on an optimal capacity mix, but is sufficient to allow it to opine that the Gadsby addition is a reasonable response to a peak load requirement and is superior to alternatives present on this record. We therefore are able to conclude that the acquisition of resources in the manner here proposed by the Company to meet future peak load is necessary, reasonable, and in the public interest.

As presented by the Company, available alternatives are of but two kinds: wholesale market purchases and construction of a peaking generation facility. These alternatives are thoroughly analyzed by the Company, the Division, and the Committee, with the clear result that the Gadsby proposal is the superior one. Subject to their ability to examine the outcome of the Company's pending request for proposals for wholesale market purchases in order to confirm the Company's representation that the Gadsby proposal beneficially displaces some of them, no party disagrees with this conclusion. It is the set of benefits arising over the long run, as described on the record to include portfolio diversity, voltage support, increased system reliability, and, with respect to the alternative of greater reliance on wholesale market purchases, reduced risk of incurring unexpectedly high costs, which gives the Gadsby proposal its decided advantage over the wholesale market alternative. We so find.

The Gadsby resource addition is fully described on the record. Compared to the other sorts of peaking facilities the Company might construct, it has the benefits of lower cost, greater efficiency, and reduced environmental insult. No party disputes the superiority of the Gadsby proposal, though questions about the circumstances affecting realization of these benefits have been raised. It follows that the Company, as the Division states, must give evidence that all permits for both construction and operation of the new plant have been or will be timely obtained. We find no record basis to suggest that the Company will fail to meet this requirement. We agree with a point raised by Desert Power that the construction contract with GE Packaged Power, Inc., must be filed. We have required the Company to file the contract and it has done so.

The Company represents, and we accept, that a gas supply sufficient to realize proposed project benefits is in part and soon will be wholly under contract. Based on these observations and requirements, we believe the record clearly shows that among the peaking facilities the Company might construct, the Gadsby proposal, both as to type of machine and factors influencing the location of the new units at the Gadsby plant site, is superior, and we so find.

The record shows that PacifiCorp seeks a certificate authorizing construction in Utah but is not so doing in the other states in its service territory. As represented by its counsel, this course is dictated by the Company's view of legal requirements here in Utah and in the other states. A certificate is required in the state where the facility is to be located but is not needed in other states. This pattern of certificate application has no implications, therefore, for jurisdictional cost responsibility.

The Division recommends issuance of the certificate as soon as necessary permits are in hand. The Company testifies that all required permits allowing both construction and operation of the plant either have been obtained or are in the sure process of being acquired. We require the Company to file the permits as they are received. We believe the record reveals no reason to suspect that all permits will not be timely obtained. If experience reveals otherwise, the Company must so inform us.

On the basis of the record, we find the Company fully capable of financing the construction and operation of the resource addition in a manner consistent with its utility obligations and the public interest. The Company's testimony on the point supports this conclusion as does the fact that no party takes issue with it.

The Committee recommends issuance of a conditioned certificate approving construction of the proposed resource addition. We have carefully considered the conditions the Committee would have us impose. The proposed conditions, it is clear, are intended to preserve the rights of parties to conduct further analyses of the project, to audit its costs, and to present the case, if one is indicated, that the project is not prudent, not used and useful, or that the costs incurred are to some measure not legitimate and reasonable. We note the representation by counsel for the Company that the only

issue with respect to prudence the Company believes may be open concerns a review by any party desiring to do so of the bids received pursuant to its current request for proposals for wholesale market transactions. We agree. Short of the bid review caveat, we have concluded that the Gadsby resource addition is the best of alternatives. We further state that all other regulatory ratemaking questions, including those touching on the issue of whether plant is used and useful, how costs should be allocated, and what costs are legitimate and reasonable for recovery in rates, are open for examination in the appropriate docket. We therefore find no compelling reason to condition the certificate as the Committee recommends and will not do so.

We find and conclude that the Gadsby resource addition as proposed by the Company is required by the public convenience and necessity, and that a certificate to that effect should be issued.

ORDER

1. The Certificate of Public Convenience and Necessity is granted.
2. The Company will file with the Commission all permits required for construction and operation of the Gadsby resource addition as soon as possible following receipt thereof, or will timely file an explanation of the reasons for and consequences of delay.
3. Pursuant to Utah Code Ann. § 63-46b-13, an aggrieved party may file, within 20 days after the date of this Order, a written request for rehearing or reconsideration by the Commission. Pursuant to Utah Code Ann. § 54-7-15, failure to file such a request precludes judicial review of the Order. If the Commission fails to issue an order within 20 days after the filing of such a request, the request shall be deemed denied. Judicial review of this Order may be sought pursuant to the Utah Administrative Procedures Act (Utah Code Ann. §§ 63-46b-1 *et seq.*)

DATED at Salt Lake City, Utah this 31st 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

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