

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the Petition of PacifiCorp Doing Business as Utah Power & Light Company for Modification of its Certificate Nos. 1625 and 1687)	<u>DOCKET NO. 02-035-01</u>
)	
)	<u>REPORT AND ORDER</u>
)	
In the Matter of the Petition of Raft River Rural Electric Cooperative, Inc. for Modification of its Certificate No. 1624)	<u>DOCKET NO. 02-035-01</u>
)	
)	<u>REPORT AND ORDER</u>
)	

ISSUED: January 24, 2002

By The Commission:

On January 2, 2002 PacifiCorp doing business as Utah Power & Light Company ("Utah Power") and Raft River Rural Electric Cooperative, Inc. ("Raft River") submitted a joint Verified Petition and Request for Informal Adjudication ("Joint Petition") for the approval of modifications to certain of their respective certificates of convenience and necessity. Specifically, Utah Power and Raft River seek to delete a particularly described area from Utah Power's certificated territory and add the area to Raft River's certificated territory.

The Joint Petition was distributed by the Commission to the Division of Public Utilities ("Division") and the Committee of Consumer Services ("Committee"). No party has filed any notice of intervention or motion for leave to intervene in this proceeding or has objected to the Joint Petition.

The Commission referred the Joint Petition to the Division for review and recommendation. On January 15, 2002, the Division filed its Memorandum with the Commission recommending that the Petition be approved.

The Commission, having carefully reviewed the Joint Petition, including the exhibits filed with the Petition, and the Memorandum of the Division recommending approval of the Petition, and being fully advised, makes the following Findings of Fact and Conclusions of Law and Order based thereon:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Utah Power and Raft River are public utilities which provide retail electric service in the state of Utah and as to such service are subject to the Commission's jurisdiction.
2. By order issued April 19, 1968 in Case No. 5639, the Commission granted to Utah Power Certificate of Convenience and Necessity No. 1625, authorizing it to operate as a public utility serving all of the electric needs and requirements of all customers then or thereafter located within a specifically described area of Box Elder County.
3. By order issued April 19, 1968 in Case No. 5640, the Commission granted to Raft River Certificate of Convenience and Necessity No. 1624, authorizing it to operate as a public utility serving all of the electric needs and requirements of all customers then or thereafter located within a specifically described are of Box Elder County.
4. The area which Utah Power seeks to exclude from coverage of Certificate No. 1625 and which Raft River seeks to include within the coverage of its Certificate No. 1624 (the "Subject Area") is described as follows:

The Subject Area shall be the area of the Union Pacific Railroad right-of-way (200 feet either side of the track center line) located from the point at which the Union Pacific Railroad track from Lucin, Utah enters Utah Power's certificated

service territory described in Certificate of Convenience and Necessity No. 1625, to Lakeside, Utah, such Subject Area being with Township 6, North, Ranges 9, 10, 11 and 12 West. The Subject Area is indicated on the map attached to this Order.

5. Utah Power does not provide electric service to any customers in the Subject Area. However, for years, Raft River has sold electricity to the Union Pacific Railroad ("Union Pacific") at a point within Raft River's certificated service territory. Union Pacific has distributed such electricity through distribution lines within its railroad track right-of-way, which distribution facilities were constructed, owned and operated by Union Pacific. Such facilities pass through Utah Power's certificated service territory for a distance of approximately twenty-three miles.

6. Union Pacific has requested that Raft River reconstruct and own the replacement of the above-referenced distribution line. Pursuant to the authority requested herein, Raft River would reconstruct the distribution line as a 14.4 kv single phase line, located within the Union Pacific right-of-way for the entire distance through the Subject Area, and would provide service over such line solely for the purpose of serving Union Pacific. Utah Power does not provide electric service to any customers in the Subject Area, nor does it own any electric transmission or distribution facilities within the Subject Area. Under the circumstances, Utah Power does not oppose the proposed change to the certificated service territories. By submitting the joint petition, Utah Power did not waive any right to serve any future customers in the area surrounding the Subject Area and Raft River did not assert any right, as a result of the authority sought by Raft River in this proceeding to serve any future customers in the area surrounding the Subject Area.

7. Under the circumstances described above, the public convenience and necessity would be served by including the Subject Area in Raft River's certificated service territory and excluding it from Utah Power's territory, thereby allowing Raft River to construct and own the above-described distribution line and continue providing electric service to Union Pacific in the Subject Area. Inasmuch as the Division recommends approval of the Joint Petition and there is no opposition to it, approval of the petition should be granted pursuant to Utah Code Ann. §§ 63-46b-3 and 63-46b-5.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Joint Petition of Utah Power and Raft River for the deletion of the Subject Area from Utah Power's certificated service territory and the addition of the Subject Area to Raft River's certificated service territory, for the purpose of continuing to provide electric service to Union Pacific in the Subject Area, is granted. Utah Power's Certificate of Convenience and Necessity No. 1625, and Raft River's Certificate of Convenience and Necessity No. 1624 are hereby modified accordingly.

2. Any party may petition the Commission for review of this Order within 20 days after the date of the Order.

DATED in Salt Lake City, Utah, this 24th 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#27988/27989