

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of PacifiCorp or Approval of a Power Purchase Agreement Between PacifiCorp and Kennecott Utah Copper Corporation		<u>DOCKET NO. 04-035-60</u> <u>REPORT AND ORDER</u>
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ISSUED: October 25, 2004

By The Commission:

On September 28, 2004, PacifiCorp submitted for Commission approval a proposed Power Purchase Agreement (Agreement) with Kennecott Utah Copper Corporation (Kennecott). Through the Agreement, PacifiCorp will purchase non-firm energy generated by Kennecott up to 31.8 MW from a waste heat-fired cogeneration facility constructed by Kennecott and located in Magna, Utah. The Agreement is for a term of fifteen months (October 2004 to December 2005) with option for two one-year period extensions. PacifiCorp represents that the Agreement is consistent with the Commission approved terms, including avoided capacity and energy cost payments for purchases from Qualifying Facility projects larger than one megawatt, approved by the Commission in Docket No. 03-035-14, on June 28, 2004. PacifiCorp requests that the Commission issue an order approving the Agreement, finding the terms and conditions just and reasonable and in the public interest.

On October 12, 2004, the Division of Public Utilities (Division) filed its Memorandum describing its analysis of the Agreement. Through its analysis, the Division concludes that the Agreement is in accordance with the pricing and conditions previously approved by the Commission. The Division states that the Agreement is just and reasonable and in the public interest and recommends approval of the Agreement. On October 13, 2004, the Committee of Consumer Services (Committee) filed its Memorandum concerning the Agreement. Like the Division, the Committee concludes that the Agreement should be approved. While the Committee recommends approval of the Agreement, the Committee also recommends that any extension beyond the initial fifteen month term require re-evaluation of the terms to ensure that the Agreement's terms are consistent with the long-term avoided cost methodology that would be applicable at the time of extension. The Committee makes this recommendation to ensure that the PURPA ratepayer indifference standard is met and the Agreement continues to be in the public interest during a time period over which it may be applied. This is the same recommendation made by the Committee with respect to a QF agreement between PacifiCorp and another counterparty which was recently adopted by this Commission in the order approving that

agreement in Docket No. 04-035-53. No other responses to PacifiCorp's September 28, 2004, Application have been filed with the Commission.

After notice, the Commission held a hearing on the Agreement October 22, 2004. PacifiCorp, Kennecott, the Division and the Committee appeared. No person appeared opposing approval of the Agreement. Evidence was presented in support of Commission approval of the

Agreement. All parties agreed that the Agreement was just, reasonable and in the public interest. Kennecott and PacifiCorp agreed to the recommendation of the Committee regarding contract extensions.

Based upon the evidence given at the hearing, the information presented by PacifiCorp in the original Application and the recommendations made by the Division and the Committee, and no opposition appearing, the Commission will enter an order approving the Agreement. As in Docket 04-035-53, the Commission will require any extension beyond the initial fifteen month term to be reviewed and approved by the Commission. PacifiCorp should submit a request to review and approve any extension with sufficient time for interested parties to perform their analysis and submit their recommendations prior to any extension contemplated by PacifiCorp and Kennecott.

Wherefore, we find that the terms of the Agreement are just and reasonable and that the Agreement is in the public interest pursuant to our discussion herein. We enter this ORDER approving the Agreement between PacifiCorp and Kennecott Utah Copper Corporation as discussed herein.

DATED at Salt Lake City, Utah, this 25th day of October, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

GW#41010