

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of the Application of ) DOCKET NO. 02-035-04  
PACIFICORP for an Investigation of Inter- )  
Jurisdictional Issues ) ORDER ON PACIFICORP'S  
) APPLICATION TO INITIATE  
) INVESTIGATION OF INTER-  
) JURISDICTIONAL ISSUES  
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ISSUED: March \_\_, 2002

By the Commission:

**BACKGROUND**

PacifiCorp (or the "Company") is an electrical corporation and public utility that provides retail electric service to more than 1.5 million customers in Utah and five other western states. On March 5, 2002, PacifiCorp filed an Application To Initiate Investigation of Inter-jurisdictional Issues requesting that the Commission initiate an investigation of various issues that effect PacifiCorp as a consequence of its status as a multi-jurisdictional utility subject to the jurisdiction of six state regulatory commissions. PacifiCorp owns substantial generation and transmission facilities that are operated as a single system on an integrated basis in order to provide service to all customers in a cost-effective manner. PacifiCorp recovers costs of owning and operating its generation and transmission system in retail prices established from time to time in separate state regulatory proceedings. PacifiCorp observes that if different state commissions make different decisions regarding what generation and transmission resources should be deemed to be in PacifiCorp's rate base or if different state commissions adopt different policies for allocating the costs of generation and transmission resources among states, the Company may recover less than its full cost of providing electric service.

PacifiCorp's acknowledges that state regulatory commissions should have the ability to pursue policies that they think are in the public interest in their state. However, it also believes that is important for the Company to be able to make business decisions in an environment where differing state policies do not result in denying the Company a reasonable opportunity to recover its prudently incurred costs.

PacifiCorp asserts that differences in the manner in which PacifiCorp's state commissions allocate PacifiCorp's pre-1989 generation and transmission investments currently result in a substantial under-recovery of costs. PacifiCorp also contends that there is good reason for it to be concerned that divergent state policies may cause this under-recovery to increase. PacifiCorp cites the following circumstances that it believes may result in denying the Company a reasonable opportunity to recover its prudently-incurred costs:

1. There is no consensus among PacifiCorp's jurisdictions as to how the costs of the Company's existing generation and transmission resources should be allocated.
2. There is no consensus among PacifiCorp's jurisdictions as to who should bear responsibility or enjoy the benefits of resources in the event of direct access, sale or purchase of service territory or loss of industrial load.
3. There is no consensus among PacifiCorp's jurisdictions as to PacifiCorp's responsibility for meeting future load growth through the addition of rate-based resources.
4. There is no consensus among PacifiCorp's jurisdictions as to who should bear the costs of new resource additions.
5. There is no consensus among PacifiCorp's jurisdictions as to the choice of the Company's new resource additions.

6. Even if a consensus did emerge among PacifiCorp's jurisdictions in regard to the foregoing issues, there is no means for the Company to be assured that such consensus will be maintained over the full life of new resource investments so as to permit full cost recovery.

PacifiCorp maintains that these circumstances are not conducive to sound planning and business decisions on behalf of its customers and other stakeholders and that the Commission should initiate an investigation with respect to them.

On March \_\_, 2002, the Commission published notice of the Application and invited interested parties to file comments on the Application no later than March 22, 2002.

Comments were filed on behalf of

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### **ISSUES TO BE INVESTIGATED**

PacifiCorp offered the following list of issues that it believes are appropriate for investigation by this Commission:

1. What changes, if any, are required in current Utah law and regulatory practice in order to assure that PacifiCorp will have a reasonable opportunity to recover prudently incurred costs associated with investments in generation and transmission resources, notwithstanding any future change in state policies?

2. What changes, if any, are required in the manner in which PacifiCorp's revenue requirement is calculated in order to accommodate different generation resource investment policies in different states?

3. What alternatives exist for allocating the costs of PacifiCorp's existing generation and transmission resources among states and which of these alternatives is most equitable?

4. What alternatives exist for reallocating existing resources in the event of: (a) direct access, (b) sale or purchase of service territory or (c) closure of a major industrial facility and which of these alternatives is most equitable?

5. What alternatives exist for allocating the costs of PacifiCorp's future generation and transmission resource additions among states and which of these alternatives is most equitable?

6. What alternatives exist for permitting different states to make different decisions regarding potential new generation additions and which of these alternatives is best adapted to preserving economic efficiencies?

7. What are the potential revenue requirement consequences of different methods of allocating the costs of PacifiCorp's existing generation and transmission resources among its state jurisdictions?

8. What are the potential revenue requirement consequences of different methods of allocating the costs of PacifiCorp's future generation resource additions among its state jurisdictions?

9. What policies should this Commission and other state commissions that regulate PacifiCorp adopt in order to afford PacifiCorp a reasonable opportunity to recover all of its prudently-incurred costs of existing and future generation and transmission resource investments?

This Commission is persuaded that PacifiCorp does face substantial uncertainty regarding policies that will be pursued by its state regulatory commissions and is concerned that this uncertainty may cause the Company to be disabled from making sound planning and investment decisions on behalf of the public interest in Utah. Therefore we will grant the

Company's Application and hereby initiate an investigation. However, our analysis will not be limited to the issues listed by PacifiCorp in its Application. Rather, in this docket, we will consider any issue that a party demonstrates is relevant to PacifiCorp's regulation as a multi-state utility.

### **PROPOSED MULTI-STATE PROCESS**

PacifiCorp further proposes that in advance of further Utah-specific proceedings in this investigation, there be conducted a multi-state process ("MSP") which will afford interested parties from all of the Company's jurisdictions an opportunity to analyze inter-jurisdictional issues facing PacifiCorp and seek to achieve consensus concerning them.

PacifiCorp proposes that the MSP be conducted as follows:

1. The MSP will be managed by an independent Special Master. PacifiCorp states that it has solicited recommendations from interested parties as to who might be designated as Special Master. No later than March 15, 2002, PacifiCorp proposes to nominate an individual to serve as Special Master. If, prior to March 29, 2002, one or more States accounting for more than 25 percent of PacifiCorp's retail revenues ("Opposing Percentage")<sup>1</sup> give notice to PacifiCorp that they object to PacifiCorp's proposed Special Master, the MSP schedule will be suspended until either: (a) a Special Master is proposed by PacifiCorp who is not objected to by States representing an Opposing Percentage or (b) PacifiCorp gives notice that it wishes to

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<sup>1</sup> The Company states that an Opposing Percentage would be represented by either Utah or Oregon or a combination of Wyoming and Washington together with either Idaho or California. Stakeholders in each State will independently determine whether an objection should be made on behalf of their State. If a suspension occurs because a Special Master is not designated by March 29, 2002, PacifiCorp expects that there would be a corresponding slippage in each of the MSP procedural milestones set forth in the balance of this Order.

terminate the MSP because it does not believe that a consensus can be achieved on designating a Special Master.

2. PacifiCorp requests that parties wishing to participate in the MSP provide notice to that effect to PacifiCorp as soon as practicable so that they can be included on the distribution list for the MSP. Additionally, no later than April 5, 2002, interested parties should forward to PacifiCorp any briefing papers or any other information that they wish to be reviewed by the Special Master in advance of the MSP.<sup>2</sup>

3. All meetings of the MSP will be open to all interested parties. Facilities will be provided that permit participation by telephone.

4. The MSP will culminate with the filing of a Report from the Special Master with the Commission and the other state commissions regulating PacifiCorp. The Report will: (a) describe the extent of any material consensus that was achieved among commission staffs and other interested parties as well as the views of any parties not sharing any such consensus view and (b) provide the Special Master's recommendations regarding any issues concerning which a material consensus was not achieved. Any such recommendations will be based upon a record to be developed by the Special Master. The Special Master will have discretion to determine whether the record, in regard to any contested issue, should consist of testimony and cross examination or an exchange of written submittals, provided that the process

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<sup>2</sup> The Company's Application states that any requests to be added to the MSP distribution list or materials for review by the Special Master should be e-mailed to Sue Rolfe ([Sue.Rolfe@PacifiCorp.com](mailto:Sue.Rolfe@PacifiCorp.com)) or mailed to Sue Rolfe at PacifiCorp (Suite 300, 825 NE Multnomah, Portland, Oregon 97232). PacifiCorp intends to maintain a public web site on which all MSP documents will be posted so as to avoid a requirement that parties serve materials on each other.

affords parties with a reasonable opportunity to make their views known and to contest the views of other parties.

5. PacifiCorp proposes that the MSP be conducted generally in accordance with the following schedule:

April 10, 2002 – Special Master holds individual meetings with representatives from each state (Boise)

April 11 and 12, 2002 – Organizing Meeting (Boise)

May 7, 8 and 9, 2002 – Workshop/Settlement Meeting 1

May 28 and 29, 2002 – Settlement Meeting 2

June 10 and 11, 2002 - Final Settlement Meeting

June 25, 2002 – Report from Special Master on resolved and unresolved issues and how a record will be assembled in respect to unresolved issues (this report will not be part of the MSP record)

July 15, 2002 - All party filings on unresolved issues

August 2, 2002 – All party responsive filings on unresolved issues

Week of August 12, 2002 – Further proceedings (and settlement conferences on unresolved issues)

September 6, 2002 – Special Master distributes draft report

September 13, 2002 – Parties submit comments on draft report

September 20, 2002 – Special Master files Report with the Commission other PacifiCorp state commissions

October 2 – Parties submit comments on the Special Master's Report with the Commission and other state commissions

6. At the Organizing Meeting, the Special Master, after soliciting the views of the parties, will: (a) describe how the settlement meetings will be organized around particular issues, (b) establish locations for further meetings, (c) make any required adjustments in the

schedule, (d) establish analytical requirements of the process and (e) determine whether it would be helpful to establish a “Stakeholders Committee” to work with the Special Master on procedural matters.

7. The MSP may be terminated at any time in advance of the submittal of the Report at the election of either States representing an Opposing Percentage or PacifiCorp if either concludes that the MSP is being conducted in an unreasonable manner or is not reasonably productive.

We believe that the MSP represents an innovative approach to the resolution of issues of the sort outlined in PacifiCorp’s Application and hereby endorse the process as outlined in the Company’s Application. Nonetheless, it should be clear to all concerned that this Commission is committed to taking actions that it deems to be in the public interest of Utah. We will independently review the record assembled in the MSP and additional evidence that may be offered in this investigatory docket and make our decisions accordingly. Any position taken by any representative of Utah in the MSP will not be binding on this Commission.

#### **FURTHER COMMISSION ACTIONS**

So that we may monitor the progress of the MSP, public workshops will be conducted before the Commission commencing at 9:30 A.M. on June \_\_ and August \_\_, 2002. These workshops will afford interested parties an opportunity to provide comments to the Commission concerning the MSP and afford the Commission an opportunity to provide guidance to the parties regarding the process.

Within 30 days of receipt of the Special Master’s Report, the Commission will convene a prehearing conference to establish a schedule for further proceedings in this docket.

At such prehearing conference, parties from other jurisdictions and other interested parties may petition to intervene in our proceedings in this docket.

Parties should be on notice that we expect to include the Special Master's Report, parties' comments with respect to the Special Master's Report and the supporting record from the MSP in the record in this docket, subject to any party's right to provide rebuttal testimony in respect to any aspect of the Report or record.

**ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. PacifiCorp's Application to Initiate Investigation of Inter-Jurisdictional Issues is granted and approved.
2. The Commission encourages the Division of Public Utilities and other interested parties from Utah to participate in the MSP as outlined in the Application.
3. Public workshops related to the progress of the MSP shall be conducted before the Commission in Room 427, Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah, commencing at 9:30 A.M. on June \_\_\_ and August \_\_\_, 2002.
4. Any party wishing to participate in any conference or hearing scheduled in this docket by telephone should notify Julie Orchard, Commission Secretary, at (801) 530-6713, at least one working day prior to the conference or hearing.
5. In compliance with the Americans with Disabilities Act, individuals needing special accommodations, including auxiliary communications aids and services, during any conference or hearing in this docket should notify Julie Orchard, Commission Secretary, 160 East 300 South, Room 400, Box 45585, Salt Lake City, Utah 84145-0585, Telephone: (801) 530-6713, at least three working days in advance of the conference or hearing.

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DATED at Salt Lake City, Utah this \_\_\_\_ day of \_\_\_\_\_, 2002.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard, Commission Secretary