

MICHAEL L. GINSBERG (#3391)
Assistant Attorney General
Division of Public Utilities
MARK L. SHURTLEFF (#4666)
Attorney General
160 East 300 South
P.O. Box 140857
Salt Lake City, Utah 84114-0857
Telephone (801) 366-0353

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of
PacifiCorp for an Investigation of
Inter-Jurisdictional Issues

**RESPONSE OF THE DIVISION OF
PUBLIC UTILITIES TO THE
NOMINATION OF SPECIAL MASTER**

Docket No. 02-035-04

The following is the response of the Division of Public Utilities (DPU) to the nomination by PacifiCorp to appoint Robert Hanfling as the Special Master over the investigation into inter-jurisdictional issues in the multi-jurisdictional forum established by this docket.

1. On March 15, 2002 PacifiCorp filed its Nomination with the Commission to appoint Mr. Hanfling as Special Master for the multi-state process (MSP). The comments contained here present the DPU position on the Nomination by PacifiCorp and reflect the DPU's understanding of the development of the MSP and the role of the Special Master/Facilitator.

2. The DPU has previously stated its endorsement of a multi-state process to address issues that affect more than one jurisdiction (DPU Comments on PacifiCorp Application filed March 21, 2002). We believe that for the process to work facilitation is required.

3. We recognize that the PacifiCorp Application describes a two-phase procedure for the MSP. In the first phase, the attempt will be to reach a consensus on resolving as many issues as is feasible. It is in this phase that the skills of a facilitator are appropriate. Given that the primary focus of this first phase and the associated set of skills required, the DPU suggests the use of the term facilitator for the individual chosen to moderate this phase of the process. We recommend that the Commission accept the nomination of Mr. Hanfling for this phase of the proceeding. Based on the limited biographical sketch provided as an attachment to the Nomination, it appears that Mr. Hanfling has experience as a facilitator, is generally familiar with energy issues and markets, and has no particular regional bias. However, the Company's request for expedited initiation of the MSP does not allow for a detailed investigation of Mr. Hanfling's experience. Our acceptance of Mr. Hanfling as a facilitator is premised on both our support of the MSP and also on our willingness to move forward with the first phase of this process in a timely manner. We also believe that PacifiCorp is motivated to provide an acceptable facilitator to avoid the adverse consequence of parties withdrawing from the MSP.

4. Our acceptance of Mr. Hanfling as a facilitator in phase one of this proceeding does not imply acceptance of his nomination as Special Master as is required in the proposed second phase of this process during which it is intended that a record of disputed issues be developed. This record would be submitted to the various state commissions accompanied by a recommendation from the Special Master. We believe that while evidentiary proceedings will likely be held before the individual commissions, the weight of such a report could be substantial and potentially militate adversely against the concerns of opposing parties within the state. The

DPU believes in order to mitigate against adverse outcomes, the Special Master should be carefully chosen. We recommend that the Commission allow parties to discuss this issue in the multi-state forum and to allow the parties to bring issues relating to the second phase of this proceeding to the Commission, including the possible selection of a different individual for Phase 2. The DPU makes this suggestion without any prejudgment regarding the second phase of this process or the eventual selection of a Special Master as required.

5. In conclusion the DPU recommends that the Commission enter an Order establishing Mr. Hanfling as the facilitator for the first phase of the multi-state proceedings.

Respectfully Submitted this _____ day of _____, 2002

MICHAEL L. GINSBERG
Assistant Attorney General