

RECEIVED

JAN-31-1989 FROM RITTS BRICKFIELD et al TO

P.01

UTAH PUBLIC  
SERVICE COMMISSION

**RITTS, BRICKFIELD & KAUFMAN**

SUITE 915  
WATERGATE SIX HUNDRED BUILDING  
WASHINGTON, D. C. 20037 - 2474

TELEPHONE: 202-342-0800  
FAX 202-342-0807

January 31, 1989

VIA TELEFAX

Mr. Steve Hewlett  
Executive Secretary  
Public Service Commission of Utah  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, Utah 84114

Dear Mr. Hewlett:

Attached is a copy of an order we downloaded from the FERC on-line information service this morning with regard to the Utah Power & Light Company - PacifiCorp merger case.

The order materially impacts on certain statements which we have made to the Commission, and we are sending you a copy for the information of the Commission.

Sincerely,

RITTS, BRICKFIELD & KAUFMAN



Peter J.P. Brickfield  
Counsel for Nucor Steel

PJPB:jj

copies w/attachment:  
Sandy Mooy  
Michael Ginsberg  
Thomas Forsgren  
Edward Hunter, Jr.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Martha O. Hesse, Chairman;  
Charles G. Stalon and Charles A. Trabandt.

Utah Power & Light Company ) Docket No. EC88-2-004  
PacifiCorp )  
PC/UP&L Mergins Corporation )

ORDER ON COMPLIANCE FILING

(Issued January 27, 1989)

On January 6, 1989, Utah Power & Light Company, PacifiCorp, and PC/UP&L Mergins Corporation (collectively referred to as Applicants) made a compliance filing pursuant to Opinion No. 318. 1/

In Opinion No. 318, the Commission conditionally granted approval of the merger application filed by the Applicants pursuant to section 203 of the Federal Power Act. The Commission stated that within 60 days of the issuance of Opinion No. 318, the Applicants shall make their compliance filing. 2/ We further stated that if any requests for rehearing were pending at the expiration of the 60-day period, the compliance filing shall be made within 15 days of the date the Commission disposes of such request[s]. 3/

Although the Applicants did not seek rehearing of Opinion No. 318, various other entities have requested rehearing. Those requests are now pending before the Commission. Since we intended that a compliance filing would be made only after requests for rehearing had been addressed, we will take no action on the compliance filing until we have disposed of the rehearing requests. 4/ The Applicants will have 15 days from the date of

1/ Utah Power & Light Company, PacifiCorp and PC/UP&L Mergins Corporation, Opinion No. 318, 45 FERC 61,095 (1988).

2/ 45 FERC at 61,309.

3/ Id.

4/ The Applicants filed an offer of settlement in this proceeding on January 9, 1989. Since the issues raised in the offer of settlement bear upon the issues raised in the requests for rehearing, we will address the offer of settlement in the rehearing order. Moreover, the offer of settlement cannot be addressed in this  
(continued...)

the order on rehearing to amend or refile their compliance filing. Comments will be due 30 days from the date of the amended or refiled compliance filing.

In Opinion No. 318, the Commission also stated that the merged company was required to identify, as part of its compliance filing, that portion of its total transfer capacity that could be used for firm deliveries by wheeling customers at particular points of delivery. 5/ This capacity was designated Remaining Existing Capacity (REC). 6/ The Applicants announced the REC in their compliance filing. 7/ They requested that the 90-day period for utilities seeking status as Qualifying Entities 8/ in the allocation of the REC begin upon publication of notice of that announcement. We will reject that request. As discussed above, we are requiring that the Applicants amend or refile their compliance filing. Since the designation of REC is part of that compliance filing, the 90-day period has not begun. Moreover, it

4/(...continued)

order since, pursuant to the Commission's Rules of Practice and Procedure, comments and reply comments on the offer of settlement are not due until January 30, 1989 and February 8, 1989, respectively. 18 C.F.R. 385.602 (1988).

- 5/ 45 FERC at 61,291.
- 6/ Id.
- 7/ Notice of the Announcement of Remaining Existing Capacity (Announcement) was published in the Federal Register with comments due on or before January 31, 1989. 54 Fed. Reg. 3122 (1989), errata issued January 23, 1989. Various entities filed requests to extend the comment period beyond January 31, 1989. See, e.g., Answer of Sierra Pacific Power Company, filed January 23, 1989. As discussed above, however, we have extended the period for comments on the compliance filing to 30 days from the date the compliance filing is amended or refiled. Since the Announcement is part of that compliance filing, the extension of time for comments applies to the Announcement as well. Thus, we will deny as moot the requests to extend the comment period.
- 8/ As set forth in Opinion No. 318, during the 90-day period, any entity announcing an executed contract for use of the merged company's transmission system shall be designated a "Qualifying Entity" for purposes of the allocation process.

Docket No. EC88-2-004

-3-

will not begin until the Commission issues an order setting forth when it will begin.

The Commission orders:

(A) The Applicants are hereby directed to amend or refile their compliance filing in this proceeding within 15 days after the issuance of an order disposing of the pending requests for rehearing. Comments on the amended or refiled compliance filing shall be due 30 days from the date of such amendment or refiling.

(B) The Secretary is hereby directed to publish a copy of this order in the Federal Register.

By the Commission.

( S E A L )

Lois D. Cashell,  
Secretary.