

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of)	<u>DOCKET NO. 04-035-53</u>
PacifiCorp for Approval of a Power)	
Purchase Agreement with Tesoro Refining)	<u>REPORT AND ORDER</u>
and Marketing Company)	

ISSUED: October 4, 2004

By The Commission:

On August 30, 2004, PacifiCorp submitted for Commission approval a proposed Power Purchase Agreement and Electric Service Agreement (Agreement) with Tesoro Refining and Marketing Company (Tesoro). Through the Agreement, PacifiCorp will purchase non-firm energy generated by Tesoro in excess of Tesoro's own consumed generation (up to 10 MW) from a natural gas-fired cogeneration facility constructed by Tesoro. The Agreement also provides for back-up and standby service to be supplied by PacifiCorp to Tesoro. The Agreement is for a term of sixteen months (September 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. The back-up and standby service is provided pursuant to the Commission approved Electric Service Schedule No. 31 prices and terms. 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 September 15, 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 September 23, 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 sixteen 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. No other responses to PacifiCorp's August 30, 2004, Application have been filed with the Commission. PacifiCorp filed with the Commission, on September 20, 2004, two replacement pages of the Agreement for two original pages, which contained errors, when the Application was filed. After notice, the Commission held a hearing on the Agreement October 4, 2004. PacifiCorp, Tesoro, 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.

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. The Commission will require any extension beyond the initial sixteen 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 Tesoro.

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 Tesoro Refining and Marketing Company as discussed herein.

DATED at Salt Lake City, Utah, this 4th day of October, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

GW#40579