- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application for an Order Approving the Sales of its Interest in (1) the Centralia Steam Electric Generating Plant, (2) The Ratebased Portion of the Centralia Coal Mine, and (3) Related facilities; for a Determination of the Amount of and the Proper Ratemaking Treatment of the Gain Associated with the Sale; and for an EWG Determination	)))))))	DOCKET NO. 99-2035-03 ORDER

ISSUED: May 3, 2000

By The Commission:

Having taken argument from counsel May 1, 2000, after granting review of our decision in this matter, we affirm our March 14, 2000 Order. We do not believe altering the sharing of the gain from the sale between shareholders and customers, the way PacifiCorp suggests, would be in the public interest. The proposed resultant sum would not adequately compensate Utah customers for what we perceive the future risks to be of acquiring replacement power in the market.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that our March 14, 2000 Order be affirmed.

DATED at Salt Lake City, Utah, this 3rd day of May, 2000.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

ADDITIONAL COMMENTS OF COMMISSIONER WHITE

PacifiCorp (the "Company") may be correct in suggesting that the Order which we are reviewing leads to an "anomalous" or "peculiar" result, as was suggested by counsel at rehearing. This anomalous result is caused by the Company's failure to achieve a consistent allocation mechanism among its different state jurisdictions. The Company agreed to bear this risk at the time of merger approval and continues to bear responsibility for any anomalies. To review old history: the 1990 merger between Pacific Power and Utah Power was anticipated to lead to both shareholder and ratepayer benefits from operating both companies as a single integrated system. This was the reason the merger made sense in the first place. The Public Service Commission of Utah ("Commission") discussed this at some length in its merger approval order and specified that costs should be allocated on a rolled-in basis after an appropriate transition period. Our last allocation order makes clear that we are now past the transition period and now allocating costs on a rolled-in basis. Since our allocation order, Utah has consistently treated everything, for regulatory purposes, on a fully rolled-in basis. At times it has not been to Utah's advantage to do so, but that is our regulatory principal. We have done this for a long enough time that it cannot be a surprise to the Company or to anyone else. Again, since the date of the allocations order two years ago, the Company has made no efforts, of which I am aware, to request that other state commissions also participate in a fully rolled-in system of allocations or actually to achieve such a result.

At the rehearing, counsel for the Company acknowledged that they were not requesting that any other state reconsider their orders or their allocation methods, despite the fact that these methods are not based on roll-in. The Company now characterizes Utah's actions as leading to an anomalous result, but that is only, in my view, because our order was issued last.

Also at the rehearing, the Company suggested that this Commission change our Order so that the shareholders will not bear a loss on the sale. This ignores the intent of the merger order and the plain language of our allocation order, and suggests that Utah ratepayers pay the entire sum necessary to make the company whole. Counsel also disclosed that only in Utah are they requesting a rehearing and reallocation. This is astonishing. Once again, the Company would decline to request that other states cooperate in moving to a fully rolled-in system and would continue to act as though there were never any pronouncements about our policy of full roll-in. The Company apparently continues to do nothing to dispel the perception that any problems are of this Commission's making. Obviously, I believe that full roll-in makes sense and this Commission's position on it is correct.

However, I do recognize that this presents a very difficult proposition for the Company and, as counsel suggests, this needs to be solved soon because the situation is likely to repeat itself. I suggest that there are ways to solve this problem short of having Utah continue to pay more than a fully allocated share, convenient as that may be for the Company and the other states. I accept, in part, the suggestion of the Company that this Centralia transaction presents an anomalous circumstance. Particularly troubling is the counsel's argument that the greater the profit from the sale, the larger the loss for the company. This precedent could harm the Company's incentives to bargain for the highest price in future sales. As a possible remedy, though, I would suggest a modification to the Company's suggestion that Utah, alone of all the states, cut its share of the gain so that the Company is made whole. In this case only, and not as precedent, I would be willing to modify our Order so that the gain allocated to Utah's ratepayers would be reduced by our rolled-in share of the shortfall, or approximately 35% of the $13 million that the Company will lose in the deal. I fail to understand the Company's statement that it need not ask other states to reconsider. It also may help to remind the Company that our rate-making decision in the Order attempts to match the benefits of the sale with the potential costs of the sale so that the effects in any one year are small. Thus, the benefits are amortized over the remaining life of the Centralia plant and the Company's loss, if any, is spread over an approximately 23 year period.