

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE SUPPLEMENTAL)
APPLICATION OF PACIFICORP FOR) CASE NO. PAC-E-03-1
POLLUTION CONTROL REVENUE BOND)
AUTHORITY IN CASE NOS. U-1046-129, U-)
1046-159, U-1046-163, PAC-S-90-4, PAC-S-92-4,) ORDER NO. 29201
AND PAC-S-95-2.)
_____)
)**

On January 21, 2003, PacifiCorp (Company) filed an Application with the Idaho Public Utilities Commission for an Order allowing PacifiCorp to amend the Pollution Control Revenue Bond (Bonds) terms authorized in prior Orders. The Bonds are used to finance or refinance the cost of pollution control, solid waste disposal and sewage facilities at certain PacifiCorp electric generating plants. The amendments are intended to allow credit enhancement opportunities to lower the overall cost of financing, i.e., security from First Mortgage Bonds. Amendments would be made to the Trust Indenture, Loan Agreements and related documents to make them consistent with the 1994 issuance approved in Case No. PAC-S-94-1. Order No. 25443. PacifiCorp also requests authority to enter into, replace or modify from time to time the credit enhancement arrangements supporting these Bonds. Having fully considered the Application and exhibits, its files and records relating to this Application, and the applicable laws and rules, the Commission grants the Application.

FINDINGS OF FACT

PacifiCorp was incorporated under Oregon law in August 1987 for the purpose of facilitating consummation of a merger with Utah Power & Light Company, a Utah corporation, and changing the state of incorporation of PacifiCorp from Maine to Oregon. PacifiCorp uses the assumed business names of Pacific Power & Light Company and Utah Power & Light Company within its respective service territories located in the states of California, Idaho, Oregon, Utah, Washington and Wyoming.

Pursuant to Orders (Applicable Orders) previously issued by the Commission,¹ PacifiCorp was generally authorized to (1) borrow the proceeds of not more than \$850,000,000 aggregate principal amount of Bonds to be issued by certain counties or municipalities (Issuers)² and (2) enter into such agreements or arrangements with the Issuers and with other entities as may be reasonably necessary to effect the borrowings and to provide credit enhancement for the Bonds. Of the Bonds, \$150,925,000 aggregate principal amount (Applicable Bonds) were issued in nine series pursuant to nine separate trust indentures (Trust Indentures) between the respective Issuers and trustees, and the proceeds of the issuances were borrowed by the Company pursuant to nine separate loan agreements (Loan Agreements) between the respective Issuers and the Company.³

The relevant terms and conditions relating to these Company borrowings are set forth in the Applicable Orders. However, because the Trust Indentures, Loan Agreements and related documents used in the six originating cases contain a different mechanism for changing interest rate modes from the mechanism contained in the 1994 Trust Indentures, 1994 Loan Agreements and related documents stemming from Order No. 25443, these collective documents do not permit the Company to provide security for the Applicable Bonds in the form of First Mortgage Bonds. Therefore, the Company's Application requests to amend and restate the Trust

¹ The Applicable Orders are as follows: Order No. 18169 in Case No. U-1046-129; Order No. 20937 in Case No. U-1046-159; Order No. 21666 in Case No. U-1046-163; Order No. 23468 in Case No. PAC-S-90-4; Order No. 24479 in Case No. PAC-S-92-4; and Order No. 26039 in Case No. PAC-S-95-2.

² The current authorities issued consist of: (i) \$300,000,000 of Bonds to be issued by Sweetwater County, Wyoming; (ii) \$20,000,000 of Bonds to be issued by the City of Forsyth, Montana; (iii) \$165,000,000 to be issued by Sweetwater and Converse Counties, Wyoming and the Cities of Forsyth, Montana and Gillette, Wyoming; (iv) \$90,000,000 of Bonds to be issued by Emery County, Utah and Lincoln County, Wyoming; (v) \$150,000,000 of Bonds to be issued by Emery County, Utah; Lincoln, Sweetwater and Converse Counties, Wyoming; and Moffat County, Colorado; and (vi) \$125,000,000 of Bonds to be issued by Emery and Carbon Counties, Utah; Lincoln, Sweetwater, Converse and Campbell Counties, Wyoming; Moffat and Routt Counties, Colorado; and Lewis County, Washington.

³ The nine outstanding series of Applicable Bonds and the aggregate principal amount of each series are as follows: (i) \$15,000,000 Pollution Control Revenue Bonds, Sweetwater County, Wyoming; (ii) \$8,500,000 Flexible Rate Demand Pollution Control Revenue Bonds, City of Forsyth, Montana; (iii) \$17,000,000 Customized Purchase Pollution Control Revenue Refunding Bonds, Converse County, Wyoming; (iv) \$45,000,000 Pollution Control Revenue Refunding Bonds, Lincoln County, Wyoming; (v) \$9,335,000 Pollution Control Revenue Refunding Bonds, Sweetwater County, Wyoming; (vi) \$6,305,000 Pollution Control Revenue Refunding Bonds, Sweetwater County, Wyoming; (vii) \$22,485,000 Pollution Control Revenue Refunding Bonds, Converse County, Wyoming; (viii) \$5,300,000 Environmental Improvement Revenue Bonds, Converse County, Wyoming; and (ix) \$22,000,000 Environmental Improvement Revenue Bonds, Lincoln County, Wyoming.

Indentures, Loan Agreements and related documents pertaining to the Applicable Bonds to make them generally consistent with those entered into pursuant to Order No. 25443 issued in 1994.

Order No. 25443 authorized the Company to (1) borrow the proceeds of not more than \$225,000,000 of Pollution Control Revenue Refunding Bonds (1994 Refunding Bonds) to be issued by the counties (1994 Issuers) of Emery and Carbon (Utah), Lincoln, Sweetwater and Converse, (Wyoming) and Moffat (Colorado), (2) enter into such agreements or arrangements as may be reasonably necessary to effect the borrowings and to provide credit enhancement for the 1994 Refunding Bonds, including the issuance of the Company's First Mortgage Bonds, and (3) replace or modify from time to time the credit enhancement arrangements supporting the 1994 Refunding Bonds. The 1994 Refunding Bonds were issued pursuant to separate trust indentures between the respective 1994 Issuers and a trustee, and the proceeds of the issuances were borrowed by the Company pursuant to separate loan agreements between the respective 1994 Issuers and the Company.

The Company also requests authority to enter into agreements with third parties to provide credit enhancement for the Applicable Bonds, including the issuance of up to \$150,925,000 of First Mortgage Bonds. The Company indicates that various credit enhancement arrangements have been used by the Company in connection with the issuance of other series of pollution control revenue bonds. At this time, none of the Applicable Bonds are credit enhanced.

As set forth in greater detail in the Applicable Orders, the borrowings were made to finance, or refinance, the cost of pollution control, solid waste disposal and sewage facilities (Facilities) at certain of the Company's electric generating plants. The Company's Application states that the proposed changes will enable the Company to achieve more cost-effective terms for the Applicable Bonds. The Company does not seek authorization to increase the \$150,925,000 aggregate principal amount of the Applicable Bonds or to change the basic terms of the financings set forth in the Orders. According to the Company, only technical changes to the Trust Indentures, Loan Agreements and related documents will be made.

We find that the proposed financing arrangements will provide the Company access to funds in the municipal, tax-exempt bond market which are believed to be less costly than other means of financing. To promote consistency between the issuing authorities and possibly obtain lower cost pollution control (re)financing, the Commission finds that it is reasonable to approve the requested amendments.

PacifiCorp has paid the fees required by *Idaho Code* § 61-905.

CONCLUSIONS OF LAW

PacifiCorp is an electric corporation within the definition of *Idaho Code* § 61-119 and is a public utility within the definition of *Idaho Code* § 61-129.

The Idaho Public Utilities Commission has jurisdiction over this matter pursuant to the provisions of *Idaho Code*, § 61-901 *et seq.*, and the Application reasonably conforms to Rules 141-150 of the Commission's Rules of Procedure (IDAPA 31.01.01-141-150).

The method of issuance is proper.

The general purposes to which the proceeds will be put are lawful purposes under the Public Utility Law of the State of Idaho and are compatible with the public interest. However, this general approval of the general purposes to which the proceeds will be put is neither a finding of fact nor a conclusion of law that any particular construction program of PacifiCorp which may be benefited by the approval of this Application has been considered or approved by this Order, and this Order shall not be construed to that effect.

The issuance of an Order authorizing the proposed financing does not constitute agency determination/approval of the type of financing or the related costs for ratemaking purposes, which determination the Commission expressly reserves until the appropriate proceeding.

The application should be approved.

ORDER

IT IS THEREFORE ORDERED that the Application of PacifiCorp to (1) amend and restate the Trust Indentures, Loan Agreements and related documents pertaining to the Applicable Bonds to make them generally consistent with those entered into pursuant to the Order No. 25443 issued in 1994, (2) enter into such other agreements or arrangements with the Issuers and with other entities as may be reasonably necessary to effect the borrowings and to provide credit enhancement for the Applicable Bonds, including the issuance of its First Mortgage Bonds as collateral for the Applicable Bonds, and (3) replace or modify from time to time the credit enhancement arrangements supporting the Applicable Bonds is hereby granted.

IT IS FURTHER ORDERED that, except as modified above, the authorities granted to PacifiCorp in the Orders shall remain in full force and effect.

IT IS FURTHER ORDERED that this authorization is without prejudice to the regulatory authority of this Commission with respect to rates, service, accounts, valuation, estimates, or determination of costs, or any other matter that may come before this Commission pursuant to this jurisdiction and authority as provided by law.

IT IS FURTHER ORDERED that nothing in this Order and no provision of Chapter 9, Title 61, *Idaho Code*, or any act or deed done or performed in connection with this Order shall be construed to obligate the State of Idaho to pay or guarantee in any manner whatsoever any security authorized, issued, assumed, or guaranteed under the provisions of Chapter 9, Title 61, *Idaho Code*.

IT IS FURTHER ORDERED that PacifiCorp shall file the following as they become available:

1. The "Report of Securities Issued" required by 18 CFR § 34.10.
2. Verified copies of any agreement entered into pursuant to this Order.
3. Verified copies of any credit enhancement arrangements entered into pursuant to this Order.

IT IS FURTHER ORDERED that PacifiCorp retain documentation showing that the overall cost with the credit enhancement facilities is lower than the overall cost of financing without the credit enhancement facilities.

IT IS FURTHER ORDERED that issuance of this order does not constitute acceptance of PacifiCorp's exhibits or other material accompanying the Application for any purpose other than the issuance of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this order) may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration in response to issues raised in the petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 21st day of February 2003.



PAUL KJELLANDER, PRESIDENT

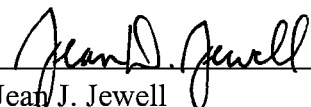


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean J. Jewell
Commission Secretary

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