

Agenda Date: September 26, 2001  
Item Number: 2B

**Docket:** UE-010594

**RE:** PacifiCorp's Application regarding transfer of its ownership from NA General Partnership to affiliate PacifiCorp Holdings, Inc.

**Staff:** Merton Lott, Energy Coordinator  
Ken Elgin, Energy Case Strategist

**Recommendation:**

Issue an order authorizing Scottish Power (SP) to restructure its organization by transferring ownership of all common stock of PacifiCorp from NA General Partnership (NAGP) to PacifiCorp Holdings, Inc. (PHI) in exchange for the capital stock of PHI. Further, the Company should be directed to notify the Commission of the divestiture of any of its subsidiaries or business activities to PHI.

**Discussion:**

This application is an effort by SP to reorganize its ownership of PacifiCorp (Pacific) and the subsidiaries of Pacific. SP intends to reorganize these entities as depicted in Exhibits 1-A and 1-B to the Company's petition and attached to this memorandum. Exhibit 1-A depicts the current organization with Pacific and PHI both being direct subsidiaries of NAGP. In Exhibit 1-A Pacific is represented as being the parent to a large group of subsidiaries. Exhibit I-B represents the intention of SP to first establish PHI as the holding company of Pacific and second to take certain subsidiaries or business activities of Pacific and transfer ownership to PHI. Exhibit 1-B depicts Pacific with no subsidiaries as a subsidiary of PHI. The implication that Pacific intends to divest all of its subsidiaries is incorrect. The plan is to separate only non-regulated activities from under Pacific's ownership. Other subsidiaries, such as the coal operations, are intended to be left with Pacific. This application deals only with the creation of PHI as the holding company of Pacific, the transfer of Pacific's subsidiaries to PHI will be accomplished at a future date as described on page 4 of the application.

The application seeks an order from the Commission stating that the proposal is not subject to Commission jurisdiction under chapter 80.12 RCW. In the alternative, if the Commission concludes that it has jurisdiction over the internal reorganization of the holding company, then Pacific seeks an order authorizing that transaction.

In October 1999, the Commission issued its Fifth Supplemental Order in Docket No. UE-981627 approving the acquisition of Pacific as a subsidiary of SP. A threshold issue in that docket was whether the Commission's jurisdiction under RCW 80.12.020 extended to transfers of stock among equity investors. The Commission determined that

it had jurisdiction because the shareholders' exchange of their equity interests in Pacific for equity interests in SP resulted in a change in control of the utility.

As a result of the stock transaction and the Commission's approval of the acquisition by SP, control of the operating utility was transferred to SP through a holding company structure. All of Pacific's outstanding stock is now held by a general partnership, NAGP, controlled by Scottish Power through this limited partnerships. The ultimate impact would be to isolate the regulated operations of SP's operating utility to Pacific.

Prior to the SP acquisition, Pacific was engaged in a number of unregulated activities. Pacific's ownership of these subsidiaries was through PacifiCorp Group Holdings Company ("PGHC"). After Pacific's acquisition by SP, PHI was created as a subsidiary of NAGP, and thus a "sister" company of Pacific (see Exhibit 1-A) within SP's holding company structure.

Staff agrees with PacifiCorp that the proposed internal reorganization will not affect the ultimate control of the utility and its jurisdictional operations. Pacific will continue to be controlled by SP through the proposed holding company structure (see Exhibit 1-B). After the transaction, PHI will own all of the stock of Pacific. Pacific will continue to be the entity managing the ongoing regulated operations

Staff is, however, concerned that the transfer of some of the subsidiaries of Pacific could impact the regulation of Pacific. While many if not all of the subsidiaries that Pacific intends to be transferred to PHI appear to be non-regulated operations, this can not be said for all of Pacific's subsidiaries. Certain activities such as the coal mines are obviously directly related to the utility operations, it is possible that other subsidiaries may also be related, but the relationship may not be so obvious. Staff proposes that the order on this issue require Pacific to notify the Commission prior to the transfer of a subsidiary or other business activity to PHI. Such notice should include the name of the subsidiary, the business conducted, transactions between the business entity and Pacific's utility activities, identification of common employees (officers included) between the business and Pacific's regulated activities, and identification of property jointly owned by the business entity and Pacific's regulated activities.

This application will not affect the Commission's determination of whether Pacific should be restructured into six separate distribution companies, a generation company, and a service company, as proposed in Docket No. UE-001878, currently pending before the Commission. That investigation continues at this time.

**Conclusion:**

In summary, Staff believes that the application in this docket is an effort to fully separate the regulated operations of Pacific within the SP holding company. The Commission should issue an order approving the transaction as consistent with the public interest.

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Further, the Commission should require the Pacific to notify the Commission of the divestiture of any of its subsidiaries or business activities as described above.

Attachments