

DEPARTMENT OF PUBLIC SERVICE REGULATION
 BEFORE THE PUBLIC SERVICE COMMISSION
 OF THE STATE OF MONTANA

IN THE MATTER OF THE APPLICATION OF)	
PACIFIC POWER LIGHT COMPANY FOR)	
AN ORDER (1) AUTHORIZING IT TO)	
GUARANTEE NOT MORE THAN \$75,000,000)	
OF DEBENTURES TO BE ISSUED AND SOLD)	
BY A FOREIGN SUBSIDIARY, (2) AUTHOR-)	UTILITY DIVISION
IZING IT TO ISSUE ITS NOTES TO ITS)	DOCKET NO. 84.4.14
FOREIGN SUBSIDIARY AND TO BORROW THE)	DEFAULT ORDER NO. 5054
PROCEEDS OF THE DEBENTURES FROM THE)	
SUBSIDIARY, AND (3) AUTHORIZING IT)	
TO ISSUE ITS NOTES AND TO BORROW NOT)	
MORE THAN \$30,000,000 TO CAPITALIZE)	
THE FOREIGN SUBSIDIARY.)	

On April 20, 1984, Pacific Power & Light Company (Pacific), a corporation organized and existing under and by virtue of the laws of the State of Maine and qualified to transact business in Montana, filed with the Montana Public Service Commission its verified application, pursuant to Sections 69-3-501 through 69-3-507, MCA, requesting authority to engage in transactions the ultimate result of which would be that Pacific would obtain not more than \$75,000,000 in aggregate principal amount from either the issuance of its promissory notes (Notes) and the guarantee of debentures (Debentures) of a foreign financing subsidiary (Sub) (indirect method) or the issuance of its Debentures (direct method). Whether indirect or direct, the Debentures would be sold to a group of managing underwriters who would market the securities primarily overseas.

The application is supported by exhibits and data in accordance with the rules and regulations of the Commission governing the authorization of the issuance of securities by electric and gas companies operating within Montana.

For detailed information with respect to the general character of Pacific's business and the territories served by it, reference is made to its annual reports on file with the Commission.

The application sets forth Counsel who will pass upon the legality of the proposed issuance, the other regulatory authorizations required, and the propriety of the proposed transactions.

At a regular open session of the Montana Public Service Commission, held in its offices at 1227 Eleventh Avenue, Helena, Montana, on May 7, 1984, there came before the Commission for final action the matters and things in Docket No. 80.4.14, and the Commission, having fully considered the application and all data and records pertaining to it on file with the Commission and being fully advised in the premises, makes the following:

FINDINGS

1. Pacific is a corporation organized and existing under and by virtue of the laws of the State of Maine and is qualified to transact business in the State of Montana.
2. Pacific is operating as a public utility as defined in Section 69-3-102, MCA, and is engaged in furnishing electric and water service in Montana.
3. The Commission has jurisdiction over Pacific's Montana utility operations under Section 69-3-102, MCA.
4. Notice of the application was published as a part of the Commission's regular weekly agenda.
5. Pacific proposes (a) to issue or guarantee not more than \$75,000,000 in aggregate principal amount of Debentures to be issued and sold directly or indirectly, (b) to issue its unsecured Notes to Sub to evidence the borrowing of the Debenture proceeds, and (c) to issue promissory notes and borrow not more than \$30,000,000 in aggregate principal amount to capitalize Sub.
6. Pacific will cause Sub to be formed under the laws of the Netherlands Antilles, to raise funds primarily outside the United States and to lend those funds to Pacific. Sub and Pacific will have no officers or directors in common.

7. Under current federal tax law, Pacific is required to withhold a portion of interest payments to foreign investors unless they can be identified and confirm that they will pay the tax on the income generated in the U.S. or unless the payments are exempt from withholding under certain treaties.

8. The interest payments made by Pacific to Sub and the payments S made by Sub to the foreign holders are not subject to U.S. withholding under an existing treaty. (The treaty is currently under renegotiation.)

9. Avoidance of a 30 percent U.S. withholding tax on interest paid to foreign investors through the Netherlands Antilles arrangement attractive to Pacific. Sub will sell not more than \$75,000,000 in aggregate principal amount of Debentures to a group of underwriters who will market the Debentures primarily to foreign investors. Sub will relend the proceeds to Pacific in exchange for Pacific's Notes. A small portion of the Debentures may be placed privately with U.S. Investors on the same terms. That placement will not be subject to registration under the Securities Act of 1933. The term of the Notes will match the term of the Debentures. To provide credit support to Sub and make the transactions feasible, Pacific will unconditionally guarantee the Debentures to be issued by Sub through an Indenture of Trust.

10. To satisfy U.S. tax requirements, financing subsidiaries must have a reasonable equity capitalization. In past financings, equity investments in Netherlands Antilles subsidiaries approximating 40 percent of the aggregate principal amount of the securities offered have been typical. Accordingly, Pacific seeks authority to borrow not more than \$30,000,000 to capitalize Sub. Sub will invest its equity to generate income. The spread between Pacific's cost of borrowing and Sub's earnings on the equity investment is expected to add marginally to the cost of the borrowings. The term of the equity investment may coextend with the term of the Debentures and Notes.

11. It is expected that the Netherlands Antilles income taxes paid by Sub on its interest income from Pacific and Sub's other foreign source income from investing its equity will be largely offset by a credit to Pacific's U.S. tax payments. The net cost of the equity investment in Sub and any tax paid to the Netherlands Antilles for which an equal

U.S. foreign tax credit is not received will add between one-fourth and one-half percent per annum to the cost of the Debentures.

12. Accordingly, the effective cost of Sub is expected generally to consist only of the following:

- a. The spread between the rate at which Pacific can borrow the amount required to capitalize Sub and the rate that Sub can earn on its equity.
- b. Annual cost of maintaining it in good standing.
- c. Other periodic costs -- paying agent, listing fees, etc.

13. Through direct or indirect payments, Pacific will pay all amounts due in connection with the Debentures, including interest, premium, principal, and issuance expenses.

14. No payment to the Debenture holders by Sub under the indenture is to be reduced by taxes, deductions, or withholdings of any nature. In the event that taxes, deductions, or withholdings are required by law, Pacific and Sub will increase their payments so that the full payment due will be received by the Debenture holders.

15. The Debentures are expected to have a stated maturity of up to seven years, bear interest at a rate of 13 to 14 percent per annum (payable annually), and be listed on the Luxembourg Stock Exchange. Under circumstances requiring the payment of additional interest to the holders or other tax charges, the Debentures will be immediately callable at the option of Pacific.

16. In the event that treaty revisions or federal legislation affect its proposed transactions (either before or after execution), Pacific may be able to simplify the structure of the transactions by eliminating its foreign subsidiary and issuing the Debentures directly. The transactions proposed will be structured to accommodate this possible simplification.

17. The proposed transactions are part of an overall plan to finance the cost of its facilities taking into consideration prudent capital ratios, earnings coverage tests, and market uncertainties as to the relative merits of the various types of financings Pacific could arrange.

18. Given its current capital structure and the existing condition of the security markets, Pacific believes that an offering through a foreign subsidiary is the method of choice at this time to minimize its long-term cost of capital.

19. Also, Pacific will not undertake the proposed transactions unless and until it can assure itself that the estimated all-in cost of the foreign borrowings proposed in this matter are no more than the estimated all-in cost of unsecured domestic borrowings for companies of comparable credit rating at the time of the Debenture pricing.

20. The proceeds and cost; of the transactions proposed are estimated to be:

	Total	Per \$100
Gross Proceeds	\$75,000,000	\$100.00
Less: Underwriting Fees		
Approximately 2%	1,500,000	2.00
Proceeds Lendable to Pacific	\$73,500,000	\$ 98.00
Less: Other issuance Expenses	345,000	0.46
Net Proceeds to Pacific	\$73,155,000	597.54

21. Pacific proposes to select a group of managing underwriters who will organize a syndicate to whom the Debentures will be sold pursuant to an Underwriting Agreement. The managing underwriters to be selected by Pacific will have extensive experience in underwriting and marketing securities of all types in this country and abroad, will be familiar with Pacific and its long-term financial goals, and will be available to Pacific's management for consultation on financial matters. They will assist Pacific in evaluating changing market conditions and in formulating the final terms and exact timing of the offering.

22. All fees will be determined by arms-length negotiation. An underwriting fee of the magnitude expected in this case is not greater than the usual or customary compensation for contemporaneous similar transactions and is reasonable given the costs of rendering the service.

23. The proceeds of the Notes will be applied predominantly to retire or replace other debt of Pacific and also to fund its construction program. The proceeds may be invested temporarily before being applied to their ultimate purpose.

24. Any obligations to be retired or replaced or their precedents were originally incurred in furtherance of a utility purpose.

25. Pacific believes that the benefits of obtaining foreign source funds at this time include the following”

- a. New source of long-term capital.
- b. Lesser cost than a similar domestic borrowing.
- c. Less onerous no-call provisions than a domestic borrowing.

26. The issuance of an order authorizing the proposed transactions does not constitute agency determination/approval of any transaction- related ratemaking issues which issues are expressly reserved until the appropriate proceeding.

CONCLUSIONS

The proposed transactions to which the application relates will be for lawful objects within the corporate purposes of Pacific. The method of financing is proper. The application should be approved.

ORDER

IT IS THEREFORE ORDERED by the Commission that:

1. The application of Pacific Power & Light Company, filed on April 20, 1984 for authority:

- a. To issue not more than \$75,000,000 in aggregate principal amount of Debentures to be issued and sold through an underwriting syndicate pr to foreign investors or to guarantee Debentures of the same amount to be issued by a wholly owned financing subsidiary,
- b. To issue its promissory notes to the financing subsidiary to evidence the borrowing of the Debenture proceeds, and

- c. To issue its promissory notes to evidence the borrowing of not more than \$30,000,000 in aggregate principal amount to capitalize its financing subsidiary pursuant to Sections 69-3-501 through 69-3-507, MCA, and to use the proceeds for normal utility purposes is granted.
 2. Pacific Power Light Company shall file the following as they become available:
 - a. The Report of Securities Issued' required by 18CFR34.10.
 - b. A verified statement showing the disposition of the proceeds of the transactions in reasonable detail.
 - c. A true copy of any resolutions of its Board of Directors or the Boards Finance Committee not already on file in this matter.
 - d. A true copy of the principal closing documents of the borrowing
 - e. A comparison of the estimated all-in cost of the proposed borrowing and the estimated all-in cost of a similar domestic borrowing at the time of Debenture pricing.
 3. Issuance of this order does not constitute acceptance of Pacific Power & Light Company's exhibits or other material accompanying the application for any purpose other than the issuance of this order.
 4. Approval of the transaction authorized shall not be construed as precedent to prejudice any future action of this Commission.
 5. Nothing contained herein shall be construed to obligate the State of Montana.
 6. This order shall be effective upon execution.

DONE IN OPEN SESSION at Helena, Montana, this 7 day of May, 1984 by a 5 to 0 vote.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

THOMAS J. SCHNEIDER, Chairman

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

CLYDE JARVIS, Commissioner

DANNY OBERG, Commissioner

ATTEST:

Madeline L. Cottrill
Secretary

(SEAL)

NOTICE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.