

Service Date: May 30,1985

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

IN THE MATTER Of The Application) UTILITY DIVISION
Of PACIFIC POWER AND LIGHT COMPANY)
For Authority to Adopt New Rates) DOCKET NO. 84.7.38
And Charges For Electric Service)
Furnished in the State Of Montana.) ORDER NO. 5128a

* * * * *

ORDER ON MOTION TO REHEAR AND/OR RECONSIDER

* * * * *

FINDINGS OF FACT

1. On April 22, 1985, the Commission approved Order No. 5128, which disposed of all matters then pending in Docket No. 84.7.38.

2. On May 6, 1985, the Montana Consumer Counsel (MCC) filed a Motion to Rehear and/or Reconsider concerning the two following issues:

- 1.) Capital Structure
- 2.) Colstrip 3 in Rate Base

3. On May 15, 1985, Pacific Power & Light Company (PP&L, Company, or Applicant) filed its Objection to MCC's Motion.

CAPITAL STRUCTURE

4. In its motion, MCC urged the Commission to reconsider

the appropriateness of giving significant weight to the equity ratios commonly found in the industry and the manner in which the equity ratio was determined. MCC requested the Commission adjust Order No. 5128 to allow no more than 30.5 percent equity in the capital structure.

5. In its objection, PP&L argues that the capital structure adopted by the Commission in Order No. 5128 reflects the way the Company finances its electric operations, and reflects the expected capital structure during the period that the rates will be in effect.

6. The Commission disagrees with MCC. The equity ratio of 34.5 percent represents a reasonable level of equity in PP&L's capital structure. During the time that the rates from Order No. 5128 will be in effect, PP&L will issue at least 3 million shares of common stock, redeem some high cost Preferred Stock from the proceeds of that stock sale, and carry on other financial transactions aimed at increasing the Company's equity ratio. In light of the Commission's previously adopted low equity ratios for PP&L (28.1 percent in Docket No. 83.5.36 and 30.9 percent in Docket No. 82.4.28), a 34.5 percent equity ratio in this proceeding is reasonable and reflects a level that PP&L should reach in the near future with its concerted efforts to raise its equity ratio after the effects of writing off much of its investments in abandoned nuclear plant projects.

7. MCC's Motion to Reconsider concerning capital structure is, therefore, DENIED.

8. MCC urged in its motion that the Commission reconsider its "strained effort to minimize the significance of PP&L's current excess capacity, an excess that the Commission found would be 67 MW of excess capacity on peak and a substantial energy surplus for the 1985-86 operating year" (MCC Motion, pp. 13-14). MCC also asked the Commission to explain the relevance of its own findings regarding "the undisputed 67 MW excess during the rate-effective period" (MCC Motion, p. 14). MCC also argued that the Commission's decision could set a precedent for allowing construction-work-in-progress (CWIP) in rate base in the future.

9. In its objection, PP&L argued that this proceeding had nothing to do with CWIP in rate base and that Order No. 5128 "does not bind the Commission to any particular ratemaking treatment of CWIP in future rate cases" (PP&L Objection, pp. 1-2).

10. Concerning MCC's arguments of 67 MW of excess capacity, PP&L stated, "The 67mw capacity imbalance includes 65mw of small power producers' capacity, which MCC witness Towers said should be considered by the Commission in determining whether Pacific has excess capacity. TR., p. 479" (PP&L Objection, p. 3). If the 65 MW of qualified facility (QF) power is eliminated as capacity, PP&L's capacity imbalance would be 2 MW, an amount which the Company argues can not justify excluding the 70 MW of capacity from Colstrip 3.

11. Concerning MCC's warnings of future inclusion of CWIP resulting from a possible precedent being set by the Commission's decision in this proceeding, the Commission agrees with PP&L that the issue of CWIP in rate base is separate and irrelevant to

allowing Colstrip 3 in rate base. The Commission does not share MCC's concern that Order No. 5128 binds the Commission to any particular ratemaking treatment of CWIP in future rate cases.

12. MCC's concern over the "undisputed" (MCC Motion, p.14), as MCC describes it, 67 MW of excess capacity seems somewhat questionable given its own witness Towers' statements concerning the 65 MW of QF power. The Commission believes that any further discussion of excess capacity in this proceeding has been adequately addressed in Order No. 5128.

13. Overall, the Commission finds that MCC's arguments for reconsideration of the Colstrip 3 issue in Order No. 5128 are unconvincing. MCC's Motion to Reconsider that portion of the Order concerning Colstrip 3 is, therefore, DENIED.

14. In its motion, MCC also seeks rehearing "with adequate provisions for discovery and subsequent cross-examination of the author of the late-filed exhibit, the Company's net benefits analysis" (MCC Motion, p. 14), on which the Commission largely based its decision in Order No. 5128 to include Colstrip 3 in rate base while also incorporating the effects of the power sale to Black Hills Power and Light Company. MCC states, "The most disturbing aspect of this is the Commission's acceptance of all the assumptions attendant to the analysis; acceptance without the benefit of performing discovery to determine what assumptions the analysis incorporates; acceptance without cross-examination of the author of the document)" (MCC Motion, p. 5).

15. MCC further argues that the Company's economic evaluation is not conclusive and that the significance of net benefits

amounting to approximately \$20 million or less is far from overwhelming. MCC discusses possible weaknesses and discrepancies in the Company's analysis and presents possible results of the net benefits analysis by utilizing varying rates of return, discount rates, and the length of the period used in the analysis. MCC also asserts that "the company's investment in the twin 500 Kv transmission line has somehow slipped into rate base without being included in the Company's net benefit analysis" (MCC Motion, p.8).

16. In its objection, PP&L counters the arguments of MCC. Concerning the use of a late-filed exhibit as a basis for the Commission's decision, PP&L thoroughly discusses the sequence of events relating to the request by the PSC Staff for a late-filed exhibit, MCC's role and opportunities for comment, the agreed-to procedure, and MCC's statements. (See PP&L Objection, p. 2.) PP&L notes that, for whatever reasons, MCC chose not to file any comments regarding the analysis, although it had a full opportunity to do so.

17. The Company defends its net benefits analysis in its objection and stated a belief that Colstrip 3 and the Black Hills contract represent a benefit to ratepayers, as determined by the net benefits analysis. Concerning MCC's assertion that PP&L's investment in the twin 500 KV transmission line "has somehow slipped into rate base without being included in the Company's net benefits analysis" (MCC Motion, p. 8), PP&L argues that those costs were in fact included in the analysis as part of the Colstrip 3 investment and not included in the determination of the revenues from the Black Hills sale.

18. The Commission agrees with PP&L that MCC's failure to comment on the net benefits analysis prior to the issuance of Order No. 5128 was inappropriate given the objections now made in its Motion to Rehear. MCC was well aware of the Commission's desire for its response so that the record would be complete and the analysis would be thoroughly examined. As it was, MCC left the Commission in a position of making judgment on the net benefits analysis without the benefit of MCC input. The Commission urges MCC to respond more appropriately in future circumstances where MCC input is requested and is critical to Commission decisions.

19. The Commission also believes, however, that MCC's motion serves as its response to PP&L's net benefits analysis. Ignoring the lateness of its comments, MCC has raised some interesting and potentially serious questions about the accuracy of the Company's analysis. As PP&L stated in its objection, "The MCC points out a number of factors which allegedly could reduce the magnitude calculated by Pacific of the net present value to Pacific's Montana customers of the Commission's treatment of Colstrip Unit 3 and the Black Hills contract" (PP&L Objection, p. 5).

Consistent with its intentions from the onset, the Commission desires full examination and analysis of the Company's net present value benefits analysis. The Commission accordingly believes that a final decision on the merits of including Colstrip 3 in PP&L's rate base primarily based on a net present value analysis requires thorough examination of that analysis, including discovery, testimony, and cross-examination. MCC's Motion to Rehear concerning PP&L's net present value benefits analysis is, therefore, GRANTED.

20. The Commission finds that the forthcoming rehearing will be

limited to only the issue of PP&L's late-filed exhibit, the net benefit analysis, as it relates to the Commission's decision in Order No. 5128 to include Colstrip 3 in rate base and the Black Hills contract in cost of service. The Commission finds that MCC, given the Commission's decision to grant its Motion to Rehear, should formulate a proposed procedural schedule, including dates for discovery, testimony, and rehearing, which would be acceptable to PP&L and the Commission.

CONCLUSIONS OF LAW

1. The Applicant, Pacific Power and Light Company, furnishes electric service to consumers in Montana, and is a "public utility" under the regulatory jurisdiction of the Montana Public Service Commission. 69-3-101, MCA.

2. The Commission properly exercises jurisdiction over the Applicant's rates and operations. 69-3-102, MCA and Title 59, Chapter 3, Part 3, MCA.

3. The Commission has provided adequate public notice of all proceedings and opportunity to be heard to all interested parties in this Docket. Title 2, Chapter 4, MCA.

ORDER

1. MCC's Motion to Reconsider concerning PP&L's capital structure is DENIED.

2. MCC's Motion to Reconsider concerning Colstrip 3 is DENIED.

3. MCC's Motion to Rehear concerning PP&L's late-filed exhibit, the net present value benefits analysis, is GRANTED, pursuant to Finding of Fact Nos. 19 and 20.

4. All motions and objections not ruled upon are denied.

DONE AND DATED this 28th day of May, 1985, by a vote of 2-1.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

Clyde Jarvis, Chairman

Howard L. Ellis, Commissioner
Dissenting

John B. Driscoll, Commissioner

ATTEST:

Trenna Scoffield
Commission Secretary
(SEAL)

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