

Service Date: September 22, 1997

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

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IN THE MATTER of the Application of)	UTILITY DIVISION
PACIFICORP for Approval of its Electric)	
Utility Restructuring Transition Plan Filed)	DOCKET NO. D97.7.91
Pursuant To Senate Bill 390.)	ORDER NO. 5987b

PRELIMINARY DETERMINATION AND ORDER ON TRANSITION PLAN

BACKGROUND

1. Pursuant to the "Electric Utility Industry Restructuring and Customer Choice Act" (Act) passed by the 1997 Montana State Legislature, PacifiCorp filed its Electric Restructuring Transition Plan (Plan) on July 1, 1997 with the Montana Public Service Commission (Commission). Section 6(2) of the Act requires that the Commission develop a procedural schedule that provides for (a) a preliminary transition plan determination by the Commission with findings on whether the Plan is complete and adequate as required by the Act and (b) an opportunity for the public utility to file a revised plan based on the preliminary determination.

2. Pursuant to the Procedural Order and Schedule, Docket No. D97.7.91, Order No. 5987, issued on June 24, 1997, the Commission received preliminary comments on the initial Plan's completeness and adequacy from Montana Consumer Counsel (MCC), Montana Department of Environmental Quality (DEQ), Bonneville Power Administration (BPA) and Plum Creek Timber (PCT).

3. On September 15, 1997 at its duly scheduled work session, the Commission determined that PacifiCorp's Plan was not complete and adequate in accordance with the Act. Maintaining that its proposal is easy to understand and implement, PacifiCorp requests that the Commission "...find ways [to implement] restructuring for utilities with a small Montana presence that do not further burden the process." (Plan, p. 20) However, the Act is not flexible

as to what must be contained in the Company's transition plan. The Commission, therefore, has no latitude in its preliminary determination on whether the Plan is complete and adequate in satisfying the Act's requirements. The Commission issues the following Preliminary Transition Plan Determination.

SUMMARY OF COMMENTS ON COMPLETENESS AND ADEQUACY OF PLAN

Montana Consumer Counsel

4. MCC states that PacifiCorp's Transition Plan is incomplete in the area of pilot programs. The Plan merely recognizes the requirement to conduct pilot programs but provides no proposals. PacifiCorp's suggestion that how customers will choose electricity suppliers is a matter for the customer and the supplier does not satisfy the requirements of the Act. PacifiCorp's documentation of functional unbundling proposals is inadequate. PacifiCorp has not separated retail energy services. According to MCC, PacifiCorp's transition cost recovery proposal does not reflect reasonable mitigation and does use one of the statutory methods for determining the value of generation related assets, liabilities and supply costs. Finally, PacifiCorp does not propose a transition charge to recover transition costs as required by the Act.

Department of Environmental Quality

5. DEQ comments that PacifiCorp's Plan (1) does not functionally separate the Company according to the four functions required by the Act; (2) does not base stranded cost estimates on one of the Act's listed methods; (3) does not categorize stranded costs according to QFs, regulatory assets, and generation/power purchases; and (4) does not provide adequate estimates of mitigation. PacifiCorp's Plan also fails to provide information on the size and scope of pilot programs and is not designed to collect the data required in the Act. PacifiCorp's customer education proposals do not provide customers objective and consistent information on restructuring which is clearly separated from marketing.

Bonneville Power Administration

6. BPA asserts that PacifiCorp's Plan fails to adequately document its pilot program proposals. PacifiCorp's Plan contains virtually none of the information on transition costs that the Commission found necessary to a complete and adequate plan in its order on MPC's transition plan (Order 5986b), according to BPA.

Plum Creek Timber

7. PCT maintains that PacifiCorp's Plan fails to adequately document its proposed transition to customer choice. The Plan does not explain when and how smaller customers will get choice, nor address important prerequisites of customer choice such as metering, load profiling and energy balancing. PacifiCorp's proposal to determine the size and scope of pilot programs after receiving the Commission's order on the Transition Plan is contrary to the Act. PacifiCorp's proposal is inadequate because it requires customers and suppliers to work out the necessary arrangements for purchases of electricity supply and energy services. PacifiCorp is obligated either to provide a proposed agreement or specify what the key terms of the arrangements will be, and should also provide other options for assigning customers who do not choose a supplier.

8. According to PCT, PacifiCorp's Plan does not include any demonstration of transition costs. PacifiCorp suggests that its small Montana presence means that a complete valuation of generating assets is unnecessary, proposing instead a residual generation transition charge. PCT maintains that PacifiCorp fails to satisfy the Act's requirements of an affirmative showing and a reasonable demonstration of claimed transition costs. PCT recommends that the Commission's preliminary determination clearly indicate that if PacifiCorp's revised plan makes no actual demonstration of stranded costs, then the Company may not recover any of these costs either during or after the transition.

9. Other areas in which PCT finds PacifiCorp's filing incomplete include: (a) failure to explain or propose a method for collecting USBC, including a sliding scale; (b) failure to address transition cost financing; (c) failure to provide tariffs that implement customer choice including terms and prices for ancillary services; (d) failure to discuss the relation between PacifiCorp's transition plan and the roles of the PSC, TAC and coops; and (e) failure to assign various issues to specific witnesses.

DISCUSSION

10. The Act does not provide guidance on what constitutes a complete and adequate transition plan. However, commenting parties generally agree on which areas of PacifiCorp's plan are incomplete and inadequate. To be complete and adequate, the Commission determines

that the Plan must be transparent in terms of addressing the requirements of the Act. A transparent plan should contain all the basic information needed to evaluate the filing, including quantitative and qualitative analyses and documentation of methods used. Parties should not have to spend discovery time to get basic supporting information.

11. The Commission finds PacifiCorp's Plan incomplete and inadequate with respect to three important areas. First, the Plan fails to provide an affirmative showing of the Company's transition costs, which reflects all reasonable mitigation and the value of all generation assets, liabilities and supply costs based on one of the Act's listed valuation methods. Second, the Plan lacks complete and adequate information on the functional separation of rate base and expense items associated with electricity supply, retail transmission and distribution and regulated and unregulated retail energy services; a single page summary using "illustrative" dollar amounts is inadequate. Third, the Plan lacks adequate detail on the Company's proposed pilot programs. Each of these areas of deficiency are discussed further below.

Transition Costs

12. The Act discusses transition costs and charges in section 12. Section 12(1) requires that the Commission allow recovery of transition costs arising from qualifying facility contracts, energy supply-related regulatory assets and deferred charges and costs related to utility owned generation and other power purchase contracts. Section 12(2) requires that transition costs reflect all reasonable mitigation including efforts to renegotiate, buy out or buy down contracts. The value of all generation assets, liabilities and supply costs must be demonstrated using one of the methods identified in subsection (2)(b) and considered on a net basis. PacifiCorp's transition cost recovery proposals do not satisfy these statutory requirements. The Plan includes no valuation of the Company's generation assets, liabilities and supply costs, yet the Company represents this as an added benefit of its Plan (p. 18). PacifiCorp does not address the concept of netting or describe forward-looking mitigation activities. To be considered complete and adequate, the revised plan must minimally include all statutorily required analyses.

Functional Separation

13. Section 8 of the Act requires vertically integrated utilities to functionally separate electricity supply, retail transmission and distribution and regulated and unregulated energy

services. PacifiCorp purports to have satisfied these requirements by filing a proposed code of conduct pursuant to subsection 8(4). Preventing discrimination and anticompetitive practices by affiliated business units is one reason for functional separation. In the initial step of deregulating the electricity supply function of a utility, functional separation also plays a role in establishing the rate base and expense levels from which transition costs are measured. The Commission agrees with DEQ that PacifiCorp's revised Plan should cost out each of the four functions separately and provide enough discussion and supporting workpapers so intervenors and the Commission can understand the methods used to complete the costing and separation.

Pilot Programs

14. Pursuant to Section 6 of the Act, transition plans must demonstrate that all requirements of the Act will be met. Section 4 requires utilities to conduct pilot programs beginning July 1, 1998 and to design the pilot programs to gather specific information relevant to the transition to customer choice. Sound pilot program designs and objectives are critical to a successful transition to full, meaningful and economically efficient retail customer choice. PacifiCorp's proposal to provide the details of its pilot programs after the Commission issues its order on the Plan is inconsistent with the Act and inappropriate. The Commission cannot evaluate a plan which will guide the transition to retail competition in electricity supply when a critical component of the plan is missing. PacifiCorp's revised Plan should provide as many details as possible about its pilot programs, including the size and scope of the programs.

Miscellaneous Deficiencies

15. The Commission finds several other areas where PacifiCorp's Plan should be strengthened. Pursuant to Section 5 of the Act, PacifiCorp's revised plan should discuss how customers not eligible for choice on July 1, 1998 will be phased in over the transition period. PacifiCorp should address PCT's concerns as expressed on pages 3-4 of their comments regarding customer choice.

16. Pursuant to Section 7 of the Act, public utilities must propose a method for customers to choose an electricity supplier and educate customers so that they may make informed decisions. PacifiCorp's proposals in section 3.4 of its Plan are incomplete. The revised Plan should explain the "necessary arrangements" that PacifiCorp proposes for

coordination between suppliers and customers. PacifiCorp should (a) explain what information the distribution company will need from the supplier and the customer to affect a customer's selection of the supplier; (b) describe the terms, conditions, prices and penalties proposed with respect to energy scheduling and balancing and ancillary services; and (c) discuss whether it intends to use load-profiling for small commercial and residential customers participating in direct access, or whether these customers will be required to purchase special metering equipment.

17. The Commission agrees with DEQ that customer education should not be confused with the marketing activities of PacifiCorp's electricity supply business. In the revised plan PacifiCorp should explain what steps the Company will take to ensure that customers get complete and objective information in the customer education process.

CONCLUSIONS OF LAW

1. Pursuant to the "Electric Utility Industry Restructuring and Customer Choice Act," Senate Bill 390, Section 6, the Montana Public Service Commission is required to issue a preliminary transition plan determination, with findings on whether the Plan is complete and adequate subject to the requirements of the Act.

ORDER

WHEREFORE, THE COMMISSION ISSUES THE PRECEDING FINDINGS, DETERMINING THAT THE TRANSITION PLAN FILED BY PACIFICORP ON JULY 1, 1997 IS NOT COMPLETE AND ADEQUATE, AND ISSUES THIS ORDER DIRECTING PACIFICORP TO FILE A REVISED PLAN THAT REMEDIES THE DEFICIENCIES IDENTIFIED IN THIS PRELIMINARY DETERMINATION.

Done and dated this 22nd day of September, 1997 by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
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.