

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT)	
APPLICATION OF MIDAMERICAN)	CASE NO. PAC-E-05-8
ENERGY HOLDINGS COMPANY (MEHC))	
AND PACIFICORP DBA UTAH POWER &)	NOTICE OF APPLICATION
LIGHT COMPANY FOR AN ORDER)	
AUTHORIZING MEHC TO ACQUIRE)	NOTICE OF REVISED
PACIFICORP)	APPLICATION
)	
)	NOTICE OF INTERVENTION
)	DEADLINE
)	
)	ORDER NO. 29846

On July 15, 2005, PacifiCorp dba Utah Power & Light Company (“PacifiCorp”) and MidAmerican Energy Holdings Company (“MidAmerican”) filed a Joint Application requesting that the Commission authorize MidAmerican to acquire all of the outstanding common stock of PacifiCorp. Following the transaction, PacifiCorp would become an indirect, wholly-owned subsidiary of MidAmerican. PacifiCorp is a wholly-owned subsidiary of Scottish Power plc. PacifiCorp is a public utility providing retail electric service to nearly 60,000 customers in southeastern Idaho through its operating division, Utah Power & Light. Pursuant to *Idaho Code* § 61-328 the proposed transaction is prohibited except when authorized by the Commission.

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A. The Transaction

YOU ARE HEREBY NOTIFIED that on May 23, 2005, ScottishPower and its wholly-owned subsidiary directly holding PacifiCorp’s common stock, PacifiCorp Holdings, Inc. (“PHI”), entered into a “Stock Purchase Agreement” providing for the sale of all PacifiCorp common stock to MidAmerican. The sale of the common stock is valued at approximately \$9.4 billion, consisting of approximately \$5.1 billion in cash plus approximately \$4.3 billion in net debt and preferred stock, which will remain outstanding at PacifiCorp. Application at 6.

YOU ARE FURTHER NOTIFIED that MidAmerican is an Iowa corporation whose ownership, as of January 31, 2005, is as follows: Berkshire Hathaway, Inc. (83.75% economic

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interest); Walter Scott, Jr., including family interest, (15.89% economic interest); David Sokol (0.25% economic interest); and Gray Abel (0.11% economic interest). On a diluted basis the economic interest would be as follows: Berkshire Hathaway (80.48% economic interest); Walter Scott, Jr., including family interest, (15.27% economic interest); David Sokol (2.91% economic interest); and Gray Abel (1.34% economic interest). *Id.* at 3.

YOU ARE FURTHER NOTIFIED that Berkshire Hathaway currently holds 9.9% of the voting stock ownership of MidAmerican and 41,263,395 shares of MidAmerican's zero coupon convertible preferred stock. *Id.* According to the Joint Application, this preferred stock is convertible to MidAmerican common shares at the option of Berkshire Hathaway under specific circumstances. One such circumstance is the repeal or amendment of the Public Utility Holding Company Act of 1935 (PUHCA) such that the conversion of preferred stock would not cause Berkshire Hathaway to become regulated as a registered holding company.

YOU ARE FURTHER NOTIFIED that on August 17, 2005, the Applicants filed a "Revised" Application and testimonies.¹ The revisions were prompted in part by the President's signing of the Energy Policy Act of 2005 on August 8, 2005. Section 1275 of Title XII (the Electricity Modernization Act of 2005) repeals PUHCA effective six months after the date of enactment. The Applicants indicate that on or shortly after February 8, 2006 – the effective date of PUHCA repeal – Berkshire Hathaway will exercise its right to convert the zero coupon convertible preferred stock whereupon Berkshire Hathaway's voting interest will correspond to its ownership interest. *Id.* at 4.

YOU ARE FURTHER NOTIFIED that MidAmerican has established a direct subsidiary limited liability company referred to as PPW Holdings, LLC ("PPW"). PPW will receive an equity infusion of approximately \$5.1 billion raised by MidAmerican through the sale of either common stock or zero coupon convertible preferred stock to Berkshire Hathaway and the issuance of long-term senior notes, preferred stock or other securities with equity characteristics, to third parties. The transaction is not conditioned on such financing and if funds

¹ The "revisions" consist of revised (replacement) pages to the Joint Application and the accompanying prefiled testimonies and exhibits. The prefiled testimony of Company witness Jeffrey Gust is withdrawn as well as Exhibit Nos. 8 and 14.

are not available from third parties, Berkshire Hathaway is not expected to provide any required funding. PPW will have no debt of its own for this transaction. *Id.* at 6.

YOU ARE FURTHER NOTIFIED that the Stock Purchase Agreement provides that PPW will pay PHI \$5.1 billion in cash at closing in exchange for 100% of the common stock of PacifiCorp. In addition, approximately \$4.3 billion in net debt and preferred stock currently outstanding at PacifiCorp will remain outstanding as liabilities of PacifiCorp. The transaction is subject to customary closing conditions, including approval of the transaction by the shareholders of ScottishPower and the receipt of required state and federal regulatory approvals. *Id.*

YOU ARE FURTHER NOTIFIED that the sale of PacifiCorp's common stock to MidAmerican will also include transfer of control of several PacifiCorp subsidiaries. *Id.* The subsidiaries consist primarily of mining companies and companies created to handle environmental remediation and generate carbon-offset credits. These other companies include Centralia Mining Company, Energy West Mining Company, Glennrock Coal Company, Interwest Mining Company, Pacific Minerals, Inc., Bridger Coal Company, PacifiCorp Environmental Remediation Company, PacifiCorp Future Generations, Inc., Canopy Botanicals, Inc., Canopy Botanicals SRL, PacifiCorp Investment Management, Inc., and Trapper Mining, Inc. *Id.* at 7.

B. Jurisdiction

YOU ARE FURTHER NOTIFIED that the Commission has jurisdiction over this matter pursuant to Title 61 of the Idaho Code and specifically *Idaho Code* § 61-328. Section 61-328 prohibits MidAmerican from acquiring PacifiCorp without the written authorization of this Commission. Before authorizing such a transaction, the Commission must find that: (1) the transaction is consistent with the public interest; (2) the transaction will not cause the cost of or rates for supplying electricity to increase; and (3) that MidAmerican has the intent and financial ability to operate and maintain PacifiCorp's operation in Idaho. The Commission may attach conditions to its authorization and enter any final Order consistent with its authority under Title 61.

C. Plans for Operating PacifiCorp

YOU ARE FURTHER NOTIFIED that the Joint Application states that MidAmerican and its primary investor, Berkshire Hathaway, customarily acquire “a business with the intention of holding and investing in the business for the long term, where such investments are fair to customers, employees and shareholders.” Application at 7. The Joint Application further states that

energy investments are stable investments and, if operated correctly, provide opportunities for fair and reasonable returns. The proposed acquisition of PacifiCorp advances [MidAmerican’s] focus on owning and operating a portfolio of high-quality energy businesses with capable management already in place and a strong emphasis on customer satisfaction, reliable service, employee safety, environmental stewardship and regulatory/legislative credibility.

Id.

YOU ARE FURTHER NOTIFIED that the Applicants project that PacifiCorp’s service territories will require investments of at least \$1 billion per year, for the next five years, in order to assure reliable electric service. *Id.* MidAmerican states that it is “uniquely suited” to undertake such investments. MidAmerican notes that it is “privately held and not subject to shareholder expectations of regular, quarterly dividends and relatively fast returns on investments.” *Id.* at 8. Focusing on significant, long-term investment “should provide PacifiCorp customers, employees, the public and regulators with valuable stability, permitting PacifiCorp’s management and employees to apply their full attention to exceeding customer expectations.” *Id.*

YOU ARE FURTHER NOTIFIED that MidAmerican states that it has experience with operating in a diverse service area, with states that have opted for competitive retail services as well as states that have opted for the traditional model of regulated retail electric service.

YOU ARE FURTHER NOTIFIED that MidAmerican intends to maintain separate debt ratings for PacifiCorp. Moreover, the Applicants expect that the transaction will have a positive impact on PacifiCorp’s bond ratings and financing costs. *Id.*

YOU ARE FURTHER NOTIFIED that PacifiCorp’s headquarters will remain in Portland, Oregon. All of PacifiCorp’s financial books and records will be retained in Portland,

and will continue to be available to this Commission. The Applicants state that there are no plans for a reduction in work force as a result of this transaction. MidAmerican will also renew and extend the commitments that have previously been made by PacifiCorp as part of the ScottishPower merger case, PAC-E-99-1 (Order No. 28213). *Id.* at 9.

YOU ARE FURTHER NOTIFIED that the Applicants maintain that MidAmerican's acquisition of PacifiCorp will result in an owner of PacifiCorp with significant financial strength, expertise in utility operations and business planning, and a focus on improving reliability and business operations over the long term. *Id.* at 9.

YOU ARE FURTHER NOTIFIED that MidAmerican is a privately held Iowa corporation engaged primarily in the production and delivery of energy from a variety of fuel sources including: coal, natural gas, geothermal, hydroelectric, nuclear, wind and bio-mass. MidAmerican has six major business operations.

- MidAmerican Energy Company is a vertically integrated electric and natural gas utility serving approximately 700,000 customers in Iowa, Illinois, South Dakota and Nebraska.
- CalEnergy Generation is a world leader in renewable energy, owning and operating 14 geothermal power plants in the western United States and the Philippines. The Company also owns natural gas generating stations in Arizona, Illinois, Texas and New York.
- Kern River Gas Transmission Company is a natural gas pipeline company headquartered in Salt Lake City. It has 1,700 miles of interstate pipeline located from Wyoming to southern California.
- Northern Natural Gas Company is a natural gas pipeline company headquartered in Omaha. It has more than 16,500 miles of interstate pipeline stretching from Texas to upper Midwest. The combined pipeline capacity of Kern River and Northern Natural Gas is nearly 6.2 billion cubic feet per day, or approximately 10% of all natural gas consumed in America.
- CE Electric UK Funding plc owns two electricity distribution businesses that serve 3.7 million customers in northeast England.
- HomeServices of America is the second largest residential real estate brokerage company in the United States. The company operates in 18

states and generated more than \$60 billion in residential real estate sales in 2004.

D. Financial Strength

YOU ARE FURTHER NOTIFIED that the Applicants state that MidAmerican has access to significant financial and managerial resources through its relationship with Berkshire Hathaway. Berkshire Hathaway has a debt rating of AAA. MidAmerican has global assets totaling approximately \$20 billion with 2004 revenues totaling \$6.6 billion. As of March 31, 2005, on a consolidated basis (PacifiCorp and MidAmerican), MidAmerican's pro forma combined assets would be approximately \$34 billion, and pro forma combined revenues would be \$9.6 billion. *Id.* at 11.

YOU ARE FURTHER NOTIFIED that the senior debt of MidAmerican's United States energy subsidiaries (MidAmerican Energy, Kern River and Northern Natural Gas) are all A rated by the major credit rating agencies. All of MidAmerican's senior debt also holds investment grade ratings from the three major bonding rating agencies (BBB- by Standard & Poor's (S&P), Baa3 by Moody's and BBB by Fitch). *Id.*

YOU ARE FURTHER NOTIFIED that after announcement of the proposed transaction, the three credit rating agencies noted that MidAmerican's senior unsecured debt was rated stable and positive. Moody and Fitch also characterized PacifiCorp's credit rating as stable with an improving future. Although S&P placed PacifiCorp's debt on "Credit Watch," S&P also expressed its intention to review its rating as the transaction progresses. *Id.* at 12.

E. Public Interest

YOU ARE FURTHER NOTIFIED that the Applicants maintain that the transaction is consistent with the public interest and will benefit Idaho and PacifiCorp's customers in Idaho. *Id.* at 15. The Applicants maintain that "the transaction will not increase the percentage of rate increases in PacifiCorp's existing projections. Thus, costs and rates for supplying service in Idaho will not be increased by reason of the transaction." *Id.* at 16. The Applicants also maintain that MidAmerican will continue state-specific commitment taken by PacifiCorp as part of the ScottishPower merger. *Id.* MidAmerican is poised to invest a significant amount of capital to ensure PacifiCorp has the infrastructure necessary for the provision of reliable and economic electric service.

YOU ARE FURTHER NOTIFIED that MidAmerican intends to own PacifiCorp for the long term leading to stability in ownership and investment in infrastructure. The Application further states that MidAmerican has a demonstrated willingness to invest in a diverse mix of generating technologies, energy efficiencies, demand-side management technologies, and environmental technologies. Diversifying PacifiCorp's generating resources, improving its environmental performance and balancing reliance on generation with technology that manages the demand for power and energy, will further the energy security of the region. *Id.* at 17.

F. Requested Timing of the Transaction

YOU ARE FURTHER NOTIFIED that the Applicants have requested that the Commission complete its review of the proposed transaction no later than February 28, 2006. An Order issued no later than February 28 would allow the parties to complete the transaction on or before March 31, 2006. *Id.* at 2. The Applicants maintain that closing on or before March 31 will facilitate the transition of PacifiCorp's financial reporting from a fiscal year ending March 31 (the ScottishPower approach) to a calendar fiscal year consistent with MidAmerican's financial statements. MidAmerican asserts that calendar year reporting is consistent with its regulatory reporting and should enable the Commission to utilize a single year's audited financial statements rather than having regulatory reporting span across two fiscal years. *Id.* at 2.

YOU ARE FURTHER NOTIFIED that the Applicants have designated the following persons to receive notices and communications with respect to this Joint Application. MidAmerican's contact points are:

Douglas L. Anderson
Senior Vice President & General Counsel
MidAmerican Energy Holdings Company
302 S. 36th Street, Suite 400
Omaha, NE 68131
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Senior Vice President – Law
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FAX: (801) 220-4449
E-mail: mcmoench@midamerican.com

The persons authorized on behalf of PacifiCorp to receive notices and communications are:

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Managing Director – Strategy
PacifiCorp
825 NE Multnomah, Suite 956
Portland, OR 97232
Phone: (503) 813-6043
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Portland, OR 97204
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FAX: (503) 220-2480
E-mail: mvannostrand@stoel.com
jffell@stoel.com

YOU ARE FURTHER NOTIFIED that the Revised Joint Application together with supporting workpapers, testimonies and exhibits, have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The Revised Application and testimonies are also available on the Commission's Website at www.puc.idaho.gov under the "File Room" icon and then "Electric Cases."

YOU ARE FURTHER NOTIFIED that to facilitate the processing of this Joint Application, the Applicants have created an electronic document room containing the documents listed in the Application. The Applicants created the electronic document room with the intent that it would advance the discovery schedule and provide parties with information pertaining to MidAmerican and PacifiCorp. Parties may arrange access to the electronic document room by contacting MidAmerican's representative as indicated in the Revised Joint Application at page 5.

YOU ARE FURTHER NOTIFIED that all hearings will be conducted pursuant to the Rules of Procedure adopted by the Idaho Public Utilities Commission. IDAPA 31.01.01.000 *et seq.*

NOTICE OF INTERVENTION DEADLINE

YOU ARE FURTHER NOTIFIED that **persons desiring to intervene** in this matter for the purpose of presenting evidence or cross-examining witnesses at hearing **must file a Petition to Intervene** with the Commission pursuant to this Commission's Rules of Procedure 72 and 73, IDAPA 31.01.01.072 and -.073. Persons intending to participate at the hearing must file a Petition to Intervene **fourteen (14) days from the date of this Order**. Persons desiring to present their views without parties' rights of participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or the parties.

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YOU ARE FURTHER NOTIFIED that Petitions to Intervene in this matter have been filed by Monsanto Company, the Idaho Irrigation Pumpers Association and Idaho Power Company. All of the intervenors have asserted that they have a direct and substantial interest in this proceeding and intend to participate as a party. Given the lack of any objection, the Commission finds that it is appropriate to grant these three Petitions to Intervene.

YOU ARE FURTHER NOTIFIED that once the deadline for intervention has passed and the Commission has ruled on the Petitions, the Commission Secretary will then issue a Notice of Parties in this case.

YOU ARE FURTHER NOTIFIED that after the Notice of Parties is issued, the Commission anticipates that the parties will informally convene to devise a recommended schedule to process this case. Once a schedule is developed, the Commission will subsequently issue the Notice of Hearing. The Commission intends to convene public hearings in this matter.

ORDER

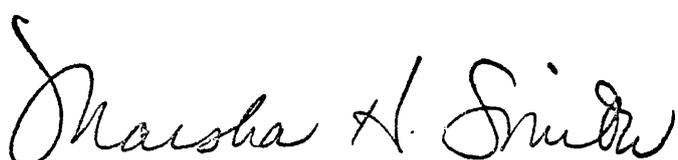
IT IS HEREBY ORDERED that the Petitions to Intervene filed by Monsanto Company, the Idaho Irrigation Pumpers Association, and Idaho Power Company are granted.

IT IS FURTHER ORDERED that persons interested in intervening in this matter do so no later than 14 days from the date of this Order.

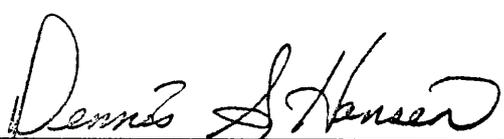
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 18th
day of August 2005.



PAUL KJELLANDER, PRESIDENT

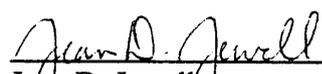


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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