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Office of Consumer Advocate Pleased with Supreme Court Decision Regarding PacifiCorp Appeal

CHEYENNE, WYOMING –

Today, the Wyoming Supreme Court issued an opinion affirming the Wyoming Public Service Commission's order which denied PacifiCorp's request to implement energy surcharges to recover approximately \$91 million in net excess wholesale power costs from its Wyoming ratepayers. Such costs were associated with wholesale power purchased as a result of the failure of the company's Hunter generating plant and the wholesale power purchased during the western power market crisis of 2000-2001. The Court specifically found that PacifiCorp failed to demonstrate that imposing such surcharges, on the Company's current Wyoming ratepayers, would be just and reasonable. The Court also found that PacifiCorp knowingly placed itself in the risky position of increasing its wholesale power market trading activities without adequate protective mechanisms in place. The Court stated, "PacifiCorp made its bed. It is just and reasonable to require PacifiCorp now to lie in that bed."

The Consumer Advocate Staff, predecessor to the Office of Consumer Advocate, argued against the recovery of these net excess wholesale power costs when the matter was originally brought before the Commission in 2002. The Office of Consumer Advocate has actively defended the Commission's action during the appeal process. "We are pleased, yet not surprised, with the Court's decision. It constitutes a victory for PacifiCorp's Wyoming customers," said Bryce Freeman, Administrator of the Office of Consumer Advocate.

"The battle is not over, however," Freeman continued. PacifiCorp continues to seek recovery of these costs through a law suit filed with the Federal District Court. This suit alleges that the Company reasonably incurred these costs and that the Commission, in denying recovery

of them, has violated the Supremacy and Commerce Clauses of the United States Constitution. “The Office of Consumer Advocate, as a party to the federal suit, continues to oppose recovery of these costs from the Company’s ratepayers,” Freeman stated. “We believe that the Wyoming Supreme Court’s decision will provide additional support for the Office of Consumer Advocate’s position in the federal suit which is currently set for hearing in the September/October, 2005, time-frame,” Freeman concluded.