

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

Docket No. UE 171

In the Matter of the Request of)	
)	
PACIFIC POWER & LIGHT)	PACIFIC COAST FEDERATION
(dba PacifiCorp))	OF FISHERMEN'S ASSOCIATIONS
)	RESPONSE TO PACIFICORP'S
)	MOTION FOR SUMMARY
Request for a General Rate Increase in the)	DISPOSITION
Company's Oregon Annual Revenues)	
[Supplemental Docket to UE-170])	
_____)	

**PCFFA SUPPORTING BRIEF TO THE
PACIFICORP MOTION FOR SUMMARY DISPOSITION**

The Pacific Coast Federation of Fishermen's Associations ("PCFFA") hereby submits this Response in support of the 31 March 2005 "PacifiCorp Motion For Summary Disposition" ("the Motion") filed in this docket, with the following clarifications and additions:

I. PCFFA IS IN AGREEMENT WITH PACIFICORP'S SUMMARY DISPOSITION MOTION ARGUMENT THAT THE KLAMATH CONTRACT TARIFFS ARE NO LONGER JUST AND REASONABLE

PCFFA agrees with PacifiCorp's position as set forth in its Motion for Summary Disposition that the special irrigation tariff contracts in the Klamath Basin cannot legally be renewed under current law, that to do so would not be fair and reasonable *vis-à-vis* all other ratepayers, and that doing so would therefore constitute "unjust discrimination" among similarly situated ratepayers. We also agree with the arguments by WaterWatch of Oregon that maintaining these below costs and discriminatory rates is not in the public's

best interests and also tends to encourage inefficient use of both water and power, resulting in waste of these increasingly precious resources. Even if PacifiCorp had any intention to renew said contracts, current standards of law would prohibit it, as set forth below.

The difference between the current USBR Contract (“On-Project Contract”) and UKRB Contract (“Off-Project Contract”) tariffs and what all other similarly situated Oregon agricultural ratepayers must pay is quite striking. According to the Motion, at page 12, In 11:

“In contrast to the 0.6 cents per kWh paid under the USBR Contract, the rates paid during the summer by other Oregon irrigators (Schedule 41), just for the cost of generation, are 3.269 cents/kWh and 3.117 cents/kWh for secondary and primary service respectively (winter rates are higher).”

And on page 13, In. 7:

“Virtually all of the service under the USBR Contract is delivered at secondary voltage. Thus, the appropriate rates to consider for delivery service are those for secondary voltage. The Distribution Energy Charge alone for secondary service is 3.579 cents/kWh. If the Transmission & Ancillary Services Charge of 0.443 cents/kWh is added to that, the cost, which does not include the Basic and Load Size Charges, is 4.022 cents/kWh. By comparison, the total rate under the USBR Contracts is 0.6 cents/kWh, less than one-sixth of the delivery costs.”

The key question of this case then is this: *Is it “just and reasonable” to maintain heavily subsidized irrigation power rates unchanged since 1917 (at 0.6 cents/kWh) for a select, small group of irrigators at rates that are less than 1/6th those paid by virtually every other similarly situated irrigator, with that subsidy required to be paid out of the pockets of other similarly situated irrigators as well as other ratepayers?*

We believe that in today’s world of 2005, maintaining rates fixed at 1917 levels indefinitely is neither fair nor reasonable, and that the rates set forth in the original terms of

the two contracts cannot be extended past that contract's natural life under current standards of law.

Unjust and unreasonable rates are greatly condemned under the law, particularly for public utilities who are supposed to serve all members of the public fairly and equitably. Within Oregon's Public Utilities Law, for instance, ORS §757.310 reads in relevant part as follows:

“(1) [N]o public utility or any agent or officer thereof shall, directly or indirectly, by any device, charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by it than:

(a) It charges, demands, collects or receives from any other person for a like and contemporaneous service under substantially similar circumstances....

(2) Any public utility violating this section is guilty of unjust discrimination.”

ORS §757.325 also reads as follows:

“(1) No public utility shall make or give undue or unreasonable preference or advantage to any particular person or locality, or shall subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.

(2) Any public utility violating this section is guilty of unjust discrimination.”

We submit that extending the current USBR and UKRB Contract rates beyond their natural terms for this special interest group in this one special locality, eliminating access to similar rates to all others, would violate both provisions of law and would thus constitute “unjust discrimination” as between similarly situated ratepayers.

Subsidies of the sort embedded in these two Contracts also seriously distort the marketplace and create unfair competition by subsidized users as against those who pay the standard agricultural rates and must reflect those higher costs in their product prices.

Every other similarly situated rural or agricultural community in Oregon is currently at an

extreme competitive disadvantage with respect to Klamath farmers receiving this subsidy. Other farming communities must pay for similar agricultural power under substantially the same circumstances at “cost of service” rates of at least 4.022 cents/kWh. In other words, all others of Oregon’s similarly situated agricultural and rural (including coastal fishing) communities routinely pay at least six (6) times more than the highly subsidized power rates of this select group of irrigators existing solely in the Klamath Basin. The presumption from such a grossly disproportionate cost base for the production of essentially the same products using power from the same source is that the subsidized rates paid under the USBR and UKRB Contracts are unjust and discriminatory.

II. CONCLUSION

We submit that the current Klamath below-cost special agricultural tariffs rates are so disproportionate as compared to all other similar agricultural rates as to amount to “unjust discrimination” in violation of both ORS §757.310 and ORS §757.325, as well as other public policies cited in the PacifiCorp Motion. As such, they could not be renewed under any contract, even if PacifiCorp had any intention of doing so. Subsidies of that magnitude for pumping water also promote waste of both power and water and thus promote overuse of both – something the water starved Klamath Basin can ill afford.

We are sympathetic to the needs of the farming community, but there is absolutely no evidence that Klamath Basin farmers are somehow less capable, less intelligent or less able to conserve water and power than any other Oregon farmers, all others of which apparently run productive farming operations using power at standard rates. The Klamath Project and off-Project users to which this special subsidized rate still applies have been

preparing for this transition for several years now. They have also been on notice that it would expire for 50 years, and the rate itself dates from 1917. The world has changed much in the last 88 years. Electrical rates should reflect that reality, and discriminatory rates of this magnitude should not be renewed under this or any other contract.

April 28, 2005

Respectfully submitted,

PACIFIC COAST FEDERATION OF FISHERMEN’S ASSOCIATIONS, INC.

By _____
Glen H. Spain, Northwest Regional Director
For PCFFA

CERTIFICATE OF SERVICE

I hereby certify that I have delivered a true and accurate copy of this Petition to the Service List attached below, by U.S. mail, first class postage fully paid, plus the original and five (5) copies of this document on the Oregon PUC Office, and made electronic filing and notice to the Service List as well on April 28, 2005.

Date: April 28, 2005

/s/ _____
Glen H. Spain

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