

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 171

In the Matter of)	
)	
PACIFIC POWER & LIGHT (dba)	RULING
PACIFICORP))	
)	
Klamath Basin Irrigation Rates.)	

**DISPOSITION: PETITIONS TO INTERVENE GRANTED;
PARTICIPATION LIMITED**

The Hoopa Valley Tribe, the Yurok Tribe, and the Pacific Coast Federation of Fishermen’s Associations have each filed petitions to intervene in this proceeding. A summary of each petition is as follows:

Hoopa Valley Tribe

The Hoopa Valley Tribe is a federally-recognized Indian tribe with its headquarters along the banks of the Trinity River in Hoopa, California. The Hoopa Valley Tribe contends that the power rate subsidies to federal and non-federal commercial irrigators in the Upper Klamath Basin adversely affect the salmon fishery of the Klamath and Trinity rivers upon which the tribe depends for its culture and subsistence.

The Hoopa Valley Tribe intends primarily to raise environmental and economic issues related to the adverse impacts of this power rate subsidy on water allocation. The Hoopa Valley Tribe contends that these subsidies remove incentives to conserve limited water supplies, thereby harming the tribe’s fishery and culture.

Yurok Tribe

The Yurok Tribe is California’s largest indian tribe with nearly 5,000 enrolled members. Its territory includes reservation lands that extend from one mile on each side from the mouth of the Klamath River and upriver for a distance of 44 miles. The Yurok Tribe’s primary interest in this case relates the power rate subsidies to federal and non-federal commercial irrigators in the Upper Klamath Basin.

The Yurok Tribe intends to raise environmental and economic issues related to the current Klamath Basin irrigation tariff and its impacts on lower river, fishing-dependent

communities, as well as impacts on traditional Yurok practices and culture. While some of these issues are already before the Commission through the filings of other intervenors, the Yurok Tribe contends that its unique economic, environmental, and cultural interests are not represented by any other party.

Pacific Coast Federation of Fishing Associations

The Pacific Coast Federation of Fishing Associations (PCFFA) is a non-profit trade association representing the interests of commercial fishing operators on the west coast. PCFFA is organized as a federation of many different port associations, vessel owner associations and fishermen's marketing associations representing a broad spectrum of fishing interests, including many coastal commercial salmon fishermen operating in Northern California, Oregon and Washington.

PCFFA intends to raise environmental and economic issues related to the below market Klamath Basin irrigation tariff and the impacts of this subsidy on water allocation and the lower river fishing-dependent communities. PCFFA contend that the unique economic interests of its members are directly affected by the outcome of this proceeding but are not represented by any other party.

APPLICABLE LAW

ORS 756.525(2) provides that the Commission may permit a party to apply to appear and participate in a proceeding "[a]t any time before the final taking of evidence" and must allow the intervention "if the [PUC] determines that such appearance and participation will not unreasonably broaden the issues or burden the record." OAR 860-012-0001(2) further provides that:

If the Commission or Administrative Law Judge (ALJ) finds the petitioner has sufficient interest in the proceeding and the petitioner's appearance and participation will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding, the Commission or ALJ will grant the petition. The Commission or ALJ may impose appropriate conditions upon any intervenor's participation in the proceeding.

DISCUSSION

The Klamath Off-Project Water Users (KOPWU) filed answers in opposition to all three petitions. KOPWU argues that the Hoopa Valley Tribe, Yurok Tribe, and PCFFA have failed to demonstrate a "sufficient interest" in this proceeding,

and that their asserted interests fall outside the scope of this proceeding. For these reasons, KOPWU requests the Commission deny all three petitions.¹

I agree that the three petitioners seek to raise issues beyond the scope of this proceeding. All three petitioners seek to raise “environmental and economic” issues related to the existing rates paid by irrigators in the Klamath Basin. The primary issue before the Commission in this docket, however, is whether PacifiCorp’s Klamath Basin irrigation customers should be provided electrical service in accordance with the historical contracts or PacifiCorp’s standard tariffs. As explained in the ruling separating this issue from PacifiCorp’s general rate proceeding, the matters at issue here are “primarily legal in nature, addressing the interpretation of existing contracts.” Prehearing Conference Memorandum and Ruling at 3 (Mar. 3, 2005).

Rather than deny the petitions, however, I will conditionally grant them. The petitioners’ participation shall be limited to addressing issues directly related to the legal issues in this proceeding. *See* OAR 860-012-0001(2). I acknowledge the petitioners’ other stated interests raised in their respective petitions; however, this docket is not the appropriate forum to address them.

Dated in Salem, Oregon, this 5th day of April, 2005.

//s//
Michael Grant
Chief Administrative Law Judge

¹ KOWPU also contends that the petition filed by the Yurok Tribe was untimely, as the deadline to seek intervention was March 14, 2005. The Yurok Tribe’s petition was originally misfiled in UE 170, PacifiCorp’s general rate proceeding. Although misfiled, that filing met the March 14 deadline. Regardless, ORS 756.525 allows a person to intervene “at any time” before the record is closed. Given that the Yurok Tribe’s misfiled petition to intervene will not delay this proceeding, KOPWU’s objection to its timeliness is denied.