



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

April 3, 2008

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97310-2551

RE: **UM 1367** - In the Matter of Ron And Shirlee Evans, Customer-Generators
Petition to Waive Net Metering Rule OAR 860-039-0060

PacifiCorp, d.b.a. Pacific Power, hereby submits for filing its Petition to Intervene and Comments Regarding the Petition to Waive Net Metering Rule in the above-referenced matter. Pacific Power waives paper service in this proceeding.

Inquiries may be directed to Joelle Steward, Regulatory Manager, at (503) 813-5542.

Very truly yours,

Andrea L. Kelly
Vice President, Regulation

Enclosures

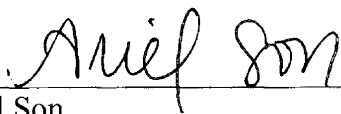
cc: UM 1367 Service List

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of April, 2008, I caused to be served, via E-Mail and Overnight Delivery (to those parties who have not waived paper service), a true and correct copy of the foregoing document on the following named person(s) at his or her last-known address(es) indicated below.

Service List
Docket No. UM-1367

Ron and Shirlee Evans
140 NW Dogwood Ave.
Redmond, OR 97756
shirleevans@yahoo.com



Ariel Son
Coordinator, Administrative Services

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1367

In the Matter of RON AND SHIRLEE
EVANS, CUSTOMER-GENERATORS
Petition to Waive Net Metering Rule OAR
860-039-0060

PETITION TO INTERVENE OF
PACIFIC POWER
Expedited review requested

1 Pursuant to ORS 756.525 and OAR 860-012-0001, PacifiCorp, d.b.a. Pacific Power
2 (“Pacific Power”), respectfully petitions to intervene in this proceeding and respectfully
3 waives paper service in this docket. In support of this Petition, Pacific Power states:

4 1. Pacific Power is an electric public utility in the state of Oregon and is subject
5 to the jurisdiction of the Public Utility Commission of Oregon (“Commission”).

6 2. The name and address of Pacific Power are:

7 PacifiCorp
8 825 NE Multnomah Street
9 Portland, OR 97232

10 Communications regarding this Application should be addressed to:

Oregon Dockets
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232
Phone: 503.813.5542
Email: oregondockets@pacificorp.com

Michelle Mishoe
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, Oregon 97232
Phone: 503.813.5977
Email: michelle.mishoe@pacificorp.com

11 Additionally, PacifiCorp requests that all data requests regarding this Petition be sent to the
12 following:

13 By email (preferred): datarequest@pacificorp.com

14 By fax: 503-813-6060

15 By regular mail: Data Request Response Center
16 PacifiCorp
17 825 NE Multnomah, Suite 2000
18 Portland, Oregon 97232

1 Informal questions may be directed to Joelle Steward, Oregon Regulatory Affairs
2 Manager at 503-813-5542.

3 3. Ron and Shirlee Evans (“Petitioners”) are net metering customers of Pacific
4 Power. Petitioners seek a waiver of the requirement in OAR 860-039-0060(1) that any
5 unused kilowatt hour credits accumulated by Petitioners must be transferred to Pacific
6 Power’s low-income assistance programs. Instead, Petitioners request that Pacific Power
7 refund the monetary amount for any excess energy to Petitioners.

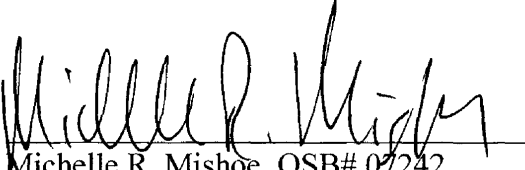
8 4. Pacific Power has a direct and substantial interest in this proceeding. Any
9 Commission decision on the issues could affect Pacific Power’s business and future net
10 metering program operations.

11 5. Pacific Power’s participation may assist the Commission in resolving the
12 issues before it. Pacific Power will not unreasonably broaden the issues, burden the record, or
13 unreasonably delay the proceedings. No other party can adequately represent Pacific Power’s
14 interests in this proceeding.

15 6. It is Pacific Power’s understanding that this matter is listed on the consent
16 agenda for the Commission’s Public Meeting for April 8, 2008. Pacific Power is submitting
17 its comments on the Petition concurrently with this Petition to Intervene and requests
18 expedited review.

19 WHEREFORE, Pacific Power respectfully requests that the Commission grant this
20 petition to intervene.

DATED: April 3, 2008


Michelle R. Mishoe, OSB# 07242
Legal Counsel
Counsel for Pacific Power

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1367

In the Matter of RON AND SHIRLEE
EVANS, CUSTOMER-GENERATORS
Petition to Waive Net Metering Rule OAR
860-039-0060

COMMENTS OF PACIFIC POWER
REGARDING THE PETITION

1 PacifiCorp, d.b.a. Pacific Power (“Pacific Power” or “the Company”) submits the
2 following comments regarding Ron and Shirlee Evans’ (“Petitioners”) Petition to waive Net
3 Metering Rule OAR 860-039-0060 (“Petition”). Pacific Power does not oppose granting the
4 waiver of OAR 860-039-0060(1) to allow Petitioners to receive a refund of the unused
5 kilowatt hour credit at the end of the annual billing cycle and finds acceptable the
6 Commission Staff recommendation in its April 8, 2008 Staff Report. However, the Petition
7 contains several serious allegations and assertions that should not be used as a basis for
8 granting the Petition.

9 **1. Intent of Net Metering Rules**

10 Petitioners claim that the new net metering rules set forth on July 24, 2007 in OAR
11 860 Division 39 deprive them of monetary reimbursement for their excess generation.
12 Additionally, Petitioners claim that Division 39 rules conflict with the purpose of the Energy
13 Trust of Oregon, by encouraging customer-generators to increase personal electricity
14 consumption to avoid risking loss on the capital investment in the net metering facility.
15 Pacific Power disagrees with both claims. The purpose of net metering is to offset part or all
16 of the customer-generator’s requirements for electricity. ORS 757.300(1)(d)(D). This
17 provides the customer-generator with the opportunity to maximize its return on investment,
18 and is an integral reason why the customer-generator must adequately size the net metering
19 system to match electrical consumption. Excess generation should not be considered a factor

1 when developing a net metering system and should only be a by-product of appropriately
2 sizing the net metering facility. As such, any excess should be minimal and not considered
3 when determining the rate of return on the initial capital investment.

4 Petitioners regularly generate more power on a monthly basis than what is consumed,
5 leaving them with excess energy generation each month. While it was their intent to offset
6 their electrical needs and their excess generation is typically small, Petitioners' net metering
7 facility does not meet the intent of the net metering program that customer-generators
8 appropriately size their net metering system. Petitioners' assertions regarding the intent of
9 the net metering rules should not be used as a basis for granting the waiver of OAR 860-039-
10 0060(1) to allow Petitioners to receive a refund of the unused kilowatt hour credit at the end
11 of the annual billing cycle.

12 **2. Breach of Contract**

13 Additionally, Petitioners repeatedly allege that Pacific Power is in breach of contract
14 as it pertains to the interconnection agreement that was signed in 2003. Pacific Power
15 strongly disagrees with this allegation. Pacific Power did not breach the interconnection
16 agreement with Petitioners. This is a serious allegation and cannot be used as a basis for
17 granting the requested waiver of OAR 860-039-0060(1) to allow Petitioners to receive a
18 refund of the unused kilowatt hour credit at the end of the annual billing cycle without
19 thoroughly examining all of the facts and legal issues. Such an examination would be beyond
20 the scope of this proceeding.

21 **3. Annual Billing Cycle Calculation of Excess Credit**

22 Petitioners also ask that the Commission waive a particular portion of Pacific Power
23 Rate Schedule 135. Anyone may petition for a waiver of any of the net metering facility
24 rules, as established in OAR 860-039-0005(2), "For good cause shown, a person may request

1 the Commission waive any of the net metering facility rules.” However, it has not been
2 established that this particular rule allows for a waiver of Pacific Power’s Rate Schedule 135.

3 Petitioners further request compensation for their excess generation at the rate set
4 forth in Rate Schedule 135, Special Condition 2. Pacific Power maintains that there is no
5 authoritative basis for granting a waiver of Pacific Power’s tariffs. However, the Commission
6 can resolve this issue by examining the net metering rules. OAR 860-039-055(1), sets forth
7 the method by which utilities must calculate a net metering customer’s monthly bills and how
8 excess energy will be carried forward to future monthly bills. This rule does not apply to the
9 annual “true up” that occurs at the end of the March billing period. OAR 860-039-0060(1)
10 applies to the annual “true up.” Petitioners request that any excess energy at the time of the
11 annual “true up” be monetarily refunded to them instead of being included in Pacific Power’s
12 low-income assistance programs. This would result simply in a redirect of the annual “true
13 up”, not a need for the use of a different formula for calculating a refund. Petitioners offer no
14 valid basis for applying a different calculation to their annual “true up” than OAR 860-039-
15 0060(1).

16 Additionally, all previous versions of Rate Schedule 135 calculated the credit at the
17 PURPA avoided cost rate. Petitioners received past credits at the avoided cost rate and will
18 not be harmed by continuing to receive credits at the avoided cost rate contemplated by OAR
19 860-039-0060(1). Petitioners’ request for the use of a different formula to calculate the
20 annual “true up” should be denied.

21 **4. Communications with State Government Officials**

22 Petitioners include several communications to and with state government officials as
23 support for their request. Appendix D of the Petition largely contains emails from Petitioners
24 to the Consumer division of the Commission discussing what appears to be an informal

1 complaint against Pacific Power. Those emails paint a picture of Petitioners' perception of
2 their net metering excess energy credit situation. However, those emails do not include
3 Pacific Power's or the Commission's statements regarding the situation. Without those, the
4 Commission does not have the complete picture to assess whether the Petitioners' informal
5 consumer complaint lends support for the instant Petition. Appendix D does not provide a
6 valid basis for granting the waiver of OAR 860-039-0060(1) to allow Petitioners to receive a
7 refund of the unused kilowatt hour credit at the end of the annual billing cycle.

8 Petitioners also include communications from them to Representative Burley and Mr.
9 Christopher Dymond of the Oregon Department of Energy in Appendix F to the Petition.
10 These communications describe Petitioners' view of their net metering excess credit
11 situation. However, Petitioners do not include communications from Representative Burley
12 or Mr. Christopher Dymond. Without those, the Commission does not have a complete
13 picture to assess whether the communications with these state officials lends support for the
14 instant Petition. Appendix F does not provide a valid basis for granting the waiver of OAR
15 860-039-0060(1) to allow Petitioners to receive a refund of the unused kilowatt hour credit at
16 the end of the annual billing cycle.

17 **5. Request for Designated Customer Representative**

18 Petitioners request that the Commission direct Pacific Power designate a customer
19 service representative specifically to work with Petitioners. OAR 860-039-0025(4) requires
20 Pacific Power to designate a representative for net metering issues. Pacific Power has done
21 this, which should meet Petitioners' needs.

22 **6. Conclusion**

23 Pacific Power does not oppose granting the waiver of OAR 860-039-0060(1) to allow
24 Petitioners to receive a refund of the unused kilowatt hour credit at the end of the annual

1 billing cycle and finds acceptable the Commission Staff recommendation in its April 8, 2008
2 Staff Report. If granted, Pacific Power intends to honor the waiver until the contract is
3 amended, terminates or until statutory and/or regulatory changes take place related to
4 treatment of excess energy credits in net metering. Pacific Power opposes granting the
5 request for waiver of its tariffs. Pacific Power also opposes the request to use a different
6 formula to calculate the annual "true up."

7 WHEREFORE, PacifiCorp respectfully submits these comments regarding Ron and
8 Shirlee Evans' Petition to Waive Net Metering Rule OAR 860-039-0060.

DATED: April 3, 2008


Andrea L. Kelly
Vice President, Regulation
Pacific Power