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March 31, 2006

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VIA ELECTRONIC FILING

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
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**Re: In the Matter of PACIFIC POWER & LIGHT Request for a General Rate Increase
in the Company's Oregon Annual Revenues (Klamath River Basin Irrigators Rates)
Docket No. UE 170**

Enclosed for filing is PacifiCorp's Response to KWUA's Motion to Re-Open Record. A copy of this filing has been served on all parties to this proceeding.

Very truly yours,

Sarah J. Adams Lien

SJL:knp

cc: Service List

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 170

In the Matter of PACIFIC POWER &
LIGHT (dba PacifiCorp) Request for a
General Rate Increase in the Company's
Oregon Annual Revenues
(Klamath River Basin Irrigators Rates)

**PACIFICORP'S RESPONSE TO
KWUA'S MOTION TO RE-OPEN
RECORD OR, IN THE
ALTERNATIVE, REQUEST FOR
OFFICIAL NOTICE**

Pursuant to ALJ Grant's March 28, 2006 Ruling in UE 170, PacifiCorp respectfully
submits this response to the Klamath Water Users Association's ("KWUA") Motion to Re-
Open Record or, in the Alternative, Request For Official Notice.

KWUA's Motion represents its second inappropriate attempt to inject into the record,
after the hearing, a pleading filed by PacifiCorp with the FERC that is irrelevant to the issues
before the Commission. *See* KWUA Post-hearing Brief, Exhibit A. As the Commission is
all too aware, the parties seek a final order on the matters at issue in this phase of the
proceeding by April 14, to allow for implementation immediately following the expiration of
the On-Project Contract on April 16, 2006.

Contrary to the requirements of ORS 756.558 and OAR 860-014-0050, KWUA
requests the Commission re-open the record or take official notice of its one-sided
presentation of the "evidence."¹ If the additional evidence is allowed into the record under
ORS 756-558(1), the statute requires "a reasonable opportunity of the parties to examine any
witnesses with reference to the additional evidence and otherwise rebut and meet such

¹ Without addressing the substance of the pleading, PacifiCorp notes that KWUA
asserts that PacifiCorp has taken the position before this Commission that the annual
government dam use charges are sufficient compensation to the Klamath Irrigation Project
for any system benefits that might be provided by the Irrigation Project. KWUA Motion at 1.
KWUA has things backwards: PacifiCorp noted in its Opening Brief that the FERC order of
January 20, 2006, suggests that the discounted rates for electric service to
Reclamation/Service have been in lieu of a separately determined government dam use
charge. PacifiCorp's Opening Brief on Appropriate Rates for Klamath Irrigators, March 6,
2006, at 27.

1 additional evidence.” Similarly, OAR 860-014-0050 provides that a party objecting to the
2 taking of official notice will have 15 days from notification to explain or rebut the noticed
3 fact. Pursuant to ORS 756.558 and OAR 860-014-0050, the Commission would therefore
4 need to provide an opportunity to parties to respond to the new evidence. Consequently, re-
5 opening the record or taking official notice of the pleading, would derail the Commission’s
6 ability to prepare a timely final order. That alone dictates against KWUA’s Motion.

7 Moreover, the information which KWUA seeks to add to the record, as it is described
8 in its Motion, is simply irrelevant to the issue posed by ALJ Grant in his March 13, 2006
9 Memorandum: “the relationship between this Commission’s authority to set retail rates for
10 PacifiCorp’s irrigation customers and the Federal Energy Regulatory Commission (“FERC”)
11 authority to establish Government dam use charges and determine and assess headwater
12 benefits for the Klamath Hydroelectric Project. No. 2082.” As PacifiCorp said at oral
13 argument, there is no such relationship, and this Commission’s authority to set retail rates is
14 unaffected by FERC’s authority regarding dam use charges. There is simply no need to
15 delay the final order in this case in order to add irrelevant evidence to the record.

16 For the reasons stated above, PacifiCorp respectfully requests the Commission deny
17 KWUA’s Motion to Re-Open Record or, in the Alternative, Request For Official Notice.

18 DATED: March 31, 2006.

19 STOEL RIVES LLP

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22 Sarah J. Adams Lien
23 John M. Eriksson

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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in Docket UE 170 on the following named person(s) on the date indicated below by email and first-class mail addressed to said person(s) at his or her last-known address(es) indicated below.

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8 DATED: March 31, 2006

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