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July 29, 2005

VIA ELECTRONIC FILING

Oregon Public Utility Commission
Attn: Filing Center
550 Capitol Street, N.E., #215
P.O. Box 2148
Salem, Oregon 97308-2148

RE: In the Matter of PACIFIC POWER & LIGHT's for a General Rate
Increase in the Company's Oregon Annual Revenues
Docket No. UE-170

Dear Filing Center,

Enclosed please find the original and one (1) copy of the Proposed Issues List of the Klamath Water Users Association ("KWUA"), the Klamath Off-Project Water Users Association ("KOPWA"), the Bureau of Reclamation ("Bureau") and the U.S. Fish and Wildlife Service ("Service") in the above captioned docket.

Respectfully submitted,



Edward A. Finklea
Of attorneys for the
Klamath Water Users Association

EAF/nh
cc: Current Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE-170

In the Matter of the Request of) KLAMATH WATER USERS
) ASSOCIATION'S, KLAMATH OFF-
PACIFIC POWER & LIGHT) PROJECT WATER USERS', BUREAU
(dba PacifiCorp)) OF RECLAMATION'S AND U.S. FISH
) AND WILDLIFE SERVICES'
Request for a General Rate Increase in the) PROPOSED ISSUES LIST
Company's Oregon Annual Revenues)

Pursuant to the Procedural Schedule established on this proceeding, the Klamath Water Users Association ("KWUA"), the Klamath Off-Project Water Users Association ("KOPWA"), the Bureau of Reclamation ("Bureau") and the U.S. Fish and Wildlife Service ("Service") hereby submit this Proposed Issues List. This issues list was jointly drafted to comply with the procedural schedule adopted at the pre-hearing conference in this matter. This Issues List was also shared with counsel for all other parties earlier this week. The parties, however, were unable to come to an agreement to sponsor a single issues list by the deadline established at the prehearing conference.

We are aware that WaterWatch has requested additional time to file an issues list. KWUA, KOPWA, the Bureau and Service do not oppose the request for an extension and are happy to work with other parties in an attempt to reach a consensus regarding the issues to be addressed in this proceeding.

This Proposed Issues List uses, as a starting point, the issues (in **bold** below) identified by the Commission in Order No. 05-726 for consideration in the "remand phase" of UE 170.

This proposed list includes “sub-issues” to be addressed in resolving the primary issues identified in Order No. 05-726.

1. What is the statutory standard applicable to the setting of electric rates for irrigators located within the Klamath River Basin?

- a. Is the statutory standard applicable to establishing rates for Klamath Basin irrigation customers the “just and reasonable” standard found in ORS §§ 756.040, 757.210 *et seq.*, or does the Klamath River Basin Compact (the “Compact”), ORS § 542.610 *et seq.*, establish a separate and distinct statutory standard (“lowest power rate that may be reasonable”) for determining the appropriate rates for Klamath Basin irrigation customers?
- b. If the Klamath River Basin Compact establishes a different statutory standard than the “just and reasonable” standard for determining the appropriate rates for Klamath irrigation customers, 1) what standard does the Compact establish, and 2) what is the effect and meaning of that standard in terms of setting rates?
- c. If the statutory standard applicable to establishing rates for Klamath Basin irrigation customers is *not* the “just and reasonable” standard and the Compact does *not* establish the applicable statutory standard, what statutory standard applies?

2. What are the appropriate rates PacifiCorp should charge the Klamath River Basin irrigators for electric service?

- a. Are the contract rates under the On-Project and Off-Project Agreements justifiable according to the “applicable statutory standard to the setting of electric rates for irrigators located within the Klamath River Basin?” (*i.e.*, are the contract rates “just and reasonable” or consistent with the “lowest power rate which may be reasonable” standard in the Compact?).
- b. Are the On-Project and Off-Project Agreements “Special Contracts”?
- c. Should the Klamath Basin irrigation customers be included in a separate class of customers than other irrigation customers for purposes of service and rates (*i.e.*, a separate service classification under ORS § 757.230)?
 - i. Was the “applicable statutory standard” adopted in the first phase of the proceedings the “just and reasonable standard”, the “lowest power rate that may be reasonable” standard under the Compact, or some other standard?

- ii. Are Klamath Basin irrigation customers distinguishable from other irrigation customers for reasons including, but not limited to, the statutory recognition adopted in the Compact, the cost to serve Klamath customers, the energy usage of Klamath customers, or any other aspects of the service provided to Klamath customers?
- iii. Is the electric service that PacifiCorp provides to Klamath Basin irrigation customers 1) “like and contemporaneous” to the service provided to other irrigation customers, and 2) provided “under substantially similar circumstances” to those under which service is provided to other irrigation customers?
- iv. Are Klamath Basin irrigation customers “similarly situated” to other irrigation customers?
- v. What historical, geographic, or hydrologic circumstances distinguish Klamath Basin irrigation customers from other irrigation customers?
- vi. What value is provided by Klamath Basin irrigation customers to the PacifiCorp system that is not provided by other irrigation customers?
- d. If it is determined that Klamath Basin irrigation should be included in the same class as other Oregon irrigation customers, is PacifiCorp’s standard irrigation tariff the appropriate rate for Klamath Basin irrigation customers or is a different rate justified?
- e. If it is determined that Klamath Basin should *not* be included in the same class as other Oregon irrigation customers and a different rate than the standard irrigation tariff is justified, what is the appropriate rate?
 - i. Is a rate credit appropriate based on different costs or characteristics of serving Klamath customers, historical circumstances surrounding Klamath customers, and/or value provided by Klamath customers to the PacifiCorp system?
 - ii. Is the appropriate rate the cost of providing electric service to Klamath Basin irrigation customers from PacifiCorp’s Klamath Basin hydroelectric facilities?
 - iii. Should both the value provided by Klamath customers and the cost of providing electric service from Klamath Basin Hydroelectric Facilities be taken into account in setting a rate for Klamath Basin irrigation customers?

f. **What impact should the Federal Energy Regulatory Commission actions regarding PacifiCorp's right to operate the Klamath Hydroelectric Project under annual licenses have on the actions taken by the Oregon Public Utility Commission in this docket?**

- i. If the Federal Energy Regulatory Commission grants PacifiCorp an annual extension of its current license to operate Project No. 2082 facilities and explicitly or implicitly conditions PacifiCorp's continued operation of the Klamath Hydroelectric Project after April of 2006 upon PacifiCorp continuing to comply with its License Settlement Agreement -- including the obligation to provide power for pumping Klamath water for use on project lands and for drainage of project lands and for pumps operated by the United States or successors in interest at the current rates -- should the Oregon Public Utility Commission authorize PacifiCorp to continue charging the historic rates to the United States, to the On-Project irrigation customers, and to the Off-Project irrigation customers?
- ii. Should this Commission order any rate change prior to FERC granting PacifiCorp an annual license?

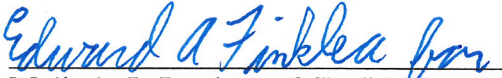
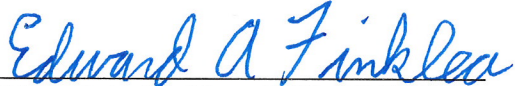
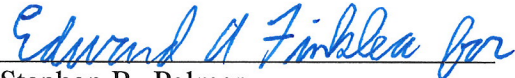
3. **If any rate change affecting these customers is implemented, how and when should these customers be transitioned from the rates established in the historical contracts?**

- a. If the rates for Klamath Basin irrigation customers are modified, when should that modification take effect?
 - o During the time PacifiCorp operates Klamath Basin hydroelectric facilities under annual licenses?
 - o Once the terms of any new FERC license are known?
- b. If the rates for Klamath Basin irrigation customers are modified, should Schedule 33 remain in place to implement the new rates for those customers?
- c. What is the maximum percentage of annual rate change that is allowable according to the statutory standard adopted in the first phase of this proceeding?
- d. If the rates for Klamath Basin irrigation customers are increased, does any OPUC rate mitigation policy applied in UE 170 limit the overall rate increase that those customers should receive?

- Does any rate mitigation policy applied in UE 170 limit the overall rate increase that Klamath irrigation customers may receive in only one year?
- e. Do any other rate mitigation policies, rules, or statutes apply?

DATED: This 29th day of July, 2005.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing KLAMATH WATER USERS ASSOCIATION'S, KLAMATH OFF-PROJECT WATER USERS', BUREAU OF RECLAMATION'S AND U.S. FISH AND WILDLIFE SERVICES' PROPOSED ISSUES LIST on the attached Service List obtained on July 29, 2005 from the Oregon Public Utility Commission's Website:

- [XX] by **MAILING** a full, true and correct copy thereof in a sealed, postage-paid envelope, addressed as shown on the attached Service List, and deposited with the U.S. Postal Service at Portland, Oregon, on the date set forth below;
- [XX] **and** by **electronic mail** ("e-mail") to those parties on the Oregon Public Utility Commission's Website Service List who listed an e-mail address.

DATED Wednesday, July 29, 2005.



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