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May 19, 2005

**VIA EMAIL & FIRST CLASS MAIL**

Oregon Public Utility Commission  
550 Capitol St. NE, #215  
PO Box 2148  
Salem, OR 97308-2148  
Attn: Filing Center

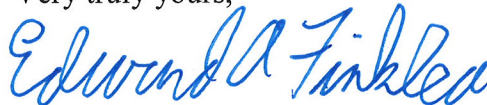
Re: UE 170 – Pacific Power & Light (dba PacifiCorp) Request for a General Rate  
Increase in the Company's Oregon Annual Revenues

Dear Filing Center:

Please find enclosed the original and one copy of the Klamath Water Users Association's  
Motion to File Testimony Out of Time in the above-referenced docket.

Thank you for your assistance. Should you have any questions regarding this matter,  
please feel free to contact me.

Very truly yours,



Edward A. Finklea

cc: UE-170 Service List (via email & first class mail)

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 170

In The Matter of	)	
	)	
PACIFIC POWER & LIGHT	)	
(dba PACIFICORP)	)	KLAMATH WATER USERS
	)	ASSOCIATION MOTION TO
Request for a General Rate Increase in	)	FILE TESTIMONY OUT OF TIME
The Company's Oregon Annual Revenues	)	
_____	)	

**INTRODUCTION**

Pursuant to OAR § 860-013-0031 and Judge Logan's letter dated May 12, 2005, the Klamath Water Users Association ("KWUA") moves to file the Direct Testimony and Exhibits of Donald W. Schoenbeck on behalf of KWUA out of time. In support of this Motion, KWUA states as follows:

**BACKGROUND**

On November 12, 2004, PacifiCorp filed a general rate case with the Commission seeking an annual revenue increase of 12.5%, or \$102,000,000. Although KWUA members historically have purchased power pursuant to Schedule 33, PacifiCorp has stated its intent to migrate all Schedule 33 customers onto Schedule 41. KWUA therefore engaged the services of Mr. Schoenbeck to analyze and provide testimony on Schedule 41. Because KWUA had engaged Mr. Schoenbeck to analyze and file testimony on Schedule 41, KWUA applied for and received case certification for intervenor funding to advocate on behalf of PacifiCorp's irrigation rate payers in this proceeding.

On December 8, 2004, Judge Kirkpatrick issued a Prehearing Conference Order providing that direct testimony was due on May 5, 2005. On April 14, 2005, PacifiCorp filed a motion to amend the procedural schedule. On April 18, 2005, the Commission revised the schedule providing that staff and intervenor direct testimony was due on May 9, 2005.

This proceeding has changed substantially since KWUA intervened and filed its request for Intervenor Funding. In February 2005, the Commission bifurcated the proceeding and initiated UE 171 to address “the narrow issue of whether PacifiCorp’s Klamath Basin irrigation customers should be provided electrical service in accordance with the historical contracts or PacifiCorp’s standard tariffs.” *In re Pacific Power and Light*, UE 171, Ruling on Motion to Compel (April 14, 2005). The resolution of this legal question will likely determine whether or not the current Schedule 33 customers will be served under Schedule 41 as PacifiCorp has suggested. Despite having done targeted discovery on Schedule 41, Mr. Schoenbeck was unable to complete his analysis of the tariff prior to the deadline for direct testimony because it is not clear whether the Klamath Basin Irrigators will be served under Schedule 41. KWUA advised the Commission of this by letter dated May 9, 2005.

On May 12, 2005, Judge Logan sent a letter to KWUA advising KWUA that it must file opening testimony, if at all, by May 19, 2005. If it does not do so, KWUA may put itself in jeopardy of losing access to intervenor funding. Judge Logan’s letter also advises that the opening testimony must be accompanied by a motion asking that late filing of the testimony be permitted.

### **ARGUMENT**

There are at least four reasons why the Commission should grant KWUA’s Motion. First, the Direct Testimony of Donald W. Schoenbeck does not purport to introduce any new

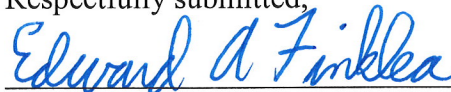
issues or expand the scope of this proceeding. Second, accepting the Direct Testimony of Donald W. Schoenbeck at this time will not prejudice any party or interfere with PacifiCorp's preparation of its rebuttal testimony. Third, KWUA was advised by the clerical staff at the Commission that filing a letter in lieu of testimony was a sufficient "placeholder" until the issues in UE-171 were resolved. Finally, and most importantly, there is no way to determine how many customers are included in Schedule 41 until the issues in UE-171 have been resolved. The impact of including or excluding the Klamath Basin Irrigators from Schedule 41 is substantial and will necessarily affect the analysis of the costs that PacifiCorp has assigned to this rate class. Thus, this is not a case in which KWUA was simply waiting to see the outcome of UE 171 before deciding whether or not to advocate on behalf of other irrigators. Rather, Mr. Schoenbeck will testify, in part, that Schedule 41 simply cannot be adequately studied until the total number, and geographic distribution, of customers is ascertained.

### **CONCLUSION**

For the reasons described above, the Commission should grant KWUA's Motion to File Direct Testimony Out of Time.

DATED this 19<sup>th</sup> day of May, 2005.

Respectfully submitted,



Edward A. Finklea, OSB # 84216

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Of Attorneys for Klamath Water  
Users Association

## CERTIFICATE OF SERVICE

I CERTIFY that I have on this day served the **KLAMATH WATER USERS ASSOCIATION MOTION TO FILE TESTIMONY OUT OF TIME** by electronic mail and/or mailing a copy properly addressed with first class postage prepaid to the following:

RATES & REGULATORY AFFAIRS PORTLAND GENERAL ELECTRIC RATES & REGULATORY AFFAIRS 121 SW SALMON STREET, 1WTC0702 PORTLAND OR 97204 <a href="mailto:pge.opuc.filings@pgn.com">pge.opuc.filings@pgn.com</a>	JIM ABRAHAMSON -- <b>CONFIDENTIAL</b> COMMUNITY ACTION DIRECTORS OF OREGON 4035 12TH ST CUTOFF SE STE 110 SALEM OR 97302 <a href="mailto:jim@cado-oregon.org">jim@cado-oregon.org</a>
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ROBERT VALDEZ PO BOX 2148 SALEM OR 97308-2148 <a href="mailto:bob.valdez@state.or.us">bob.valdez@state.or.us</a>	

Dated in Portland, Oregon, this 19th day of May 2005.



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