

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 170

In the Matter of)
)
)

PACIFIC POWER & LIGHT CO)
)

Request for a General Rate Increase in the)
Company's Oregon Annual Revenues.)
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PREHEARING BRIEF

OF THE

CITIZENS' UTILITY BOARD OF OREGON

July 13, 2005

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I. Introduction

The Citizens' Utility Board of Oregon files this prehearing brief in order to summarize our position on the issues as outlined in Judge Logan's June 14, 2005 memorandum.

II. Summary of Positions

A. Cost of Capital

CUB cosponsored testimony on cost of capital issues with the Industrial Customers of Northwest Utilities. Our position is that PacifiCorp's 2006 capital structure is appropriate except for the Company's inclusion of a promised \$500 million equity

infusion. The \$500 million equity infusion should be excluded from calculation of the Company's capital structure as it has not yet happened and is not guaranteed. A capital structure based upon a promise to do something later is not appropriate.

Further, while PacifiCorp has claimed that such an equity infusion would improve its credit rating, the Company has failed to demonstrate that this is the case. CUB provided extensive testimony and documentation that the credit rating agencies evaluate PacifiCorp on a consolidated basis. The \$500 million equity infusion into PacifiCorp may be funded by debt at PacifiCorp's holding company and, therefore, the equity may have no impact whatsoever on the Company's credit rating. We believe the appropriate capital structure is 46.2% common equity, 52.6% debt, and 1.2% preferred stock, which excludes the promised \$500 million equity infusion.

CUB and ICNU's testimony also justified a 9.5% return on equity.

B. Pensions

CUB takes no position on this issue.

C. Benefits

The issue of benefits was settled in the Second Partial Stipulation filed with the Commission on June 29, 2005.

D. Transition Adjustment Mechanism (RVM)

CUB's position is that PacifiCorp's proposed Transition Adjustment Mechanism (TAM) should not apply to residential customers. The TAM exists for the specific purpose of identifying the transition benefit or charge for direct access customers. Since

residential customers are not eligible for, and cannot benefit from, direct access, and because the TAM creates a host of problems, the TAM should not be foisted on residential customers. We made the following arguments:

1. The TAM is resource and time intensive for all advocates, even those who won't benefit from the TAM's *raison d'être*, direct access;
2. The TAM is a departure from traditional ratemaking in that some costs are no longer subject to a prudence review, such as contract prices, fuel costs, market prices;
3. The TAM creates a mismatch between fixed and variable costs, where variable cost changes may be updated in rates but downward trending rate base will not be;
4. The TAM creates a mismatch between allocation factors, because PacifiCorp is a multi-state utility and state loads are growing at different rates. The proposed TAM would apply an older allocation factor to fixed costs and a newer allocation to variable costs, thereby creating a mismatch of cost allocation;
5. The TAM creates an opportunity for gaming, as the forward market curve is internally produced, not independently derived, and the curve used in the final GRID run is developed after the Commission's order and without the Commission's review;
6. The TAM shifts some risk and burden of Utah load growth onto Oregon customers;
7. The TAM includes phantom costs not actually incurred by the utility, as the GRID model uses spot market purchases when the utility may well serve its load with a less expensive option.

Other parties do not argue that it is appropriate to apply the TAM to residential customers; rather, the arguments circle around the fact that the Commission let a differently-situated utility apply its RVM to residential customers, and the justification that, if we go through the process for some customers, we might as well apply it to everyone. Given the resource sink that PGE's RVM has proven to be, and, given the

actual policy and technical problems associated with the TAM, if PacifiCorp's proposed mechanism cannot be found to significantly benefit residential customers, it should not be applied to residential customers.

E. Consolidated Tax Adjustments

CUB has acknowledged that the PUC has historically calculated taxes on a stand-alone basis. However, we are asking for a better revenue requirement forecast by including an adjustment in the Company's tax calculation for a known and measurable cost using the benefits and burdens test.

CUB and PacifiCorp agree that rating agencies look at the consolidated company when determining PacifiCorp's credit rating. Therefore, debt at PacifiCorp Holdings Incorporated (PHI) impacts PacifiCorp's cost of debt, and thus rates for its customers. While PacifiCorp argued that this relationship always benefits the utility, CUB offered evidence to the contrary, but regardless, the link always creates a risk.

PacifiCorp represents a very large percentage of PHI's consolidated income. PHI's heavy reliance on PacifiCorp for cash flow puts pressure on PacifiCorp to deliver dividends to PHI, and this relationship between PacifiCorp and PHI creates a burden on PacifiCorp's customers.

The Company forecasts an income tax deduction due to interest payments on debt held at PHI. PacifiCorp does not propose to share that deduction with PacifiCorp customers despite the relationship between the utility, the utility's customers, and the utility's holding company, nor does PacifiCorp propose to more accurately forecast the utility's revenue requirement based on the known tax treatment.

Staff seems to agree that some application of the benefit/burden test is appropriate. However, it is not clear whether Staff believes that applying the benefit/burden test to tax deductions is generally appropriate when forecasting taxes in rates, or that, in this specific case, Staff believes the Commission should apply the benefit/burden test to taxes in order to uphold the merger commitments made in the Scottish Power ORS 757.511 process. The former is a policy on taxes, the latter an application of ORS 757.511. CUB believes that its proposal is a fair and sensible tax policy, given the current state of the law.

F. Recovery of RTO-Related Costs

CUB asserts no position on this issue.

G. Cost of Service

CUB believes that these issues have been largely settled in the stipulations filed with the Commission.

H. Rate Spread and Rate Design

i. Rate Spread

Even though the rate mitigation adjustment does not apply to residential customers in this case, for consistency, CUB offered testimony on this issue. We said, as we have said in the past, that the rate mitigation adjustment should be applied to gross rates not net rates (rates after adjustments and credits which are outside the context of this case).

ii. Rate Design

We discovered that PacifiCorp's billing periods are inconsistent. The billing period can be as short as 25 days or as long as 37 days. This is a big deal because PacifiCorp uses an inclining block rate structure. The combination of inconsistent billing periods and an inclining block rate structure has a number of implications. First, we have found in the past few years that billing periods are longest during the highest-use, winter-peaking months, so customers are most likely to be using the most energy when their billing periods are the longest. This means that more of customers' usage will fall under the highest block rate, allowing the Company to over-collect from customers. We supplied evidence that, because of the longer billing periods during residential customers' peak months, PacifiCorp could over-collect by \$9 million in 2006. Second, customers can pay different average rates based on the length of their billing period, a violation of ORS 757.370 prohibiting unjust discrimination.

CUB has recommended a rate design that uses a daily block design multiplied by the number of days in a given billing period. By converting the monthly blocks into daily blocks and multiplying by the days in the billing period, customers will have an accurate bill regardless of the length of their billing periods. PacifiCorp and Staff, presumably to avoid explaining this to customers, would essentially do the same, but only when a customer's billing period is outside of a nine-day range.

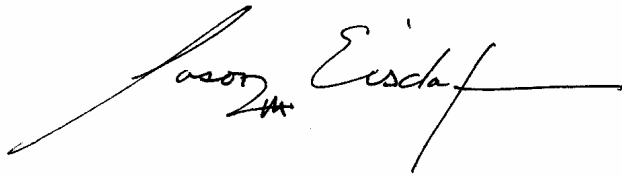
They would prorate a customer's bill if the billing period were less than 26 or more than 34 days. Unfortunately, under the guise of simplicity, PacifiCorp and Staff propose to have less accurate bills; never mind that prorating some bills and not others may produce more confusion than clarity. More disturbingly, PacifiCorp and Staff seem

comfortable with a discriminatory situation where a customer with a 26-day billing period would pay a different average rate per kWh than a customer with the same daily usage, but a 25-day billing period or a 34-day billing period.

I. Miscellaneous

CUB knows of no miscellaneous issues.

Respectfully Submitted,
July 13, 2005

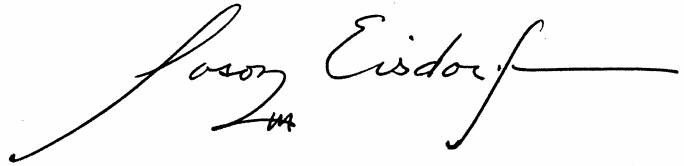
A handwritten signature in black ink, appearing to read "Jason Eisdorfer", with a long horizontal flourish extending to the right.

Jason Eisdorfer #92292
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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2005, I served the foregoing Prehearing Brief and Statement to Cross Examine of the Citizens' Utility Board of Oregon in docket UE 170 upon each party listed below, by email and U.S. mail, postage prepaid, and upon the Commission by email and by sending 6 copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

Respectfully submitted,



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