

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UE 170

In the Matter of

**PACIFIC POWER & LIGHT
COMPANY (dba PacifiCorp)**

**Request for a General Rate
Increase in the Company's
Oregon Annual Revenues**

**TESTIMONY OF
DANIEL W. MEEK**

**(proffered, pending ruling on
petitions to intervene of Utility
Reform Project and Nancy Newell)**

May 9, 2005

Q. Please state your name, address, and occupation.

A. Daniel W. Meek
10949 S.W. 4th Avenue
Portland, OR 97219

I am an attorney with 26 years of practice.

Q. Please summarize your qualifications.

A. I have been engaged in utility rate cases and other utility regulatory matters since 1980, although not full time during that entire period. I have appeared as an expert witness in previous OPUC proceedings and have participated in dozens of OPUC cases and litigation involving OPUC decisions.

Q. What are your recommendations in this proceeding?

A. My recommendations are stated below, in a normal narrative format, with no unnecessary questions interspersed to simulate a direct examination.

1 **1. The Commission should not allow in rates any federal or state income**
2 **taxes that are not actually paid to those respective levels of government.**
3

4 It appears that PacifiCorp is seeking to charge ratepayers for federal and state
5 income taxes that neither PacifiCorp, nor its parent corporation, will necessarily pay.

6 Currently, PacifiCorp's Oregon rates (UE 147) include \$62.7 million per year for
7 "federal income taxes" and \$8.7 million per year for "state income taxes." It is not
8 clear that anything close to these amounts are actually being paid to the federal
9 government or to the state government. URP and Newell submitted discovery
10 requests to PacifiCorp on May 6, 2005, to obtain information on the actual income
11 taxes paid by PacifiCorp and/or its parent corporation over the past several years.

12 In a hearing before the Oregon Senate Committee on Revenue on April 14,
13 2005, committee staff reported information received from the Oregon Department of
14 Revenue, indicating that Oregon over the past several years has received only \$1-5
15 million in state income taxes in the aggregate from the 6 largest regulated energy
16 utilities in Oregon. As PP&L is among those 6 utilities, and the largest 3 of them
17 charge ratepayers some \$28.5 million per year for "state income taxes," I surmise that
18 PP&L has been paying in state income taxes only a fraction of the amount PacifiCorp
19 has been charging to ratepayers for "state income taxes." And, as the state income
20 tax return is based upon the taxable income from the federal income tax return, it
21 stands to reason that a significant portion of the "federal income taxes" charged in
22 PacifiCorp rates also may not have actually been paid to the federal government.

1 The question of how much of the "state income taxes" and "federal income
2 taxes" charged to ratepayers is actually paid to government requires additional
3 investigation, including answers by PacifiCorp to the discovery requests.

4
5 **2. The Commission should allow into rates only a realistic estimate of the**
6 **current state and federal income taxes to be paid on PacifiCorp's income.**
7

8 The Commission's methodology for including "state income taxes" and "federal
9 income taxes" in rates is rudimentary and likely to be quite inaccurate. Instead of
10 examining any realistic estimate of the income taxes to be paid on PacifiCorp's income
11 derived from Oregon utility operations, the Commission's methodology has been to
12 look at the projected net utility income and multiply that by the nominal state and
13 federal corporate income tax rates.

14 Instead, the Commission should make a realistic estimate of the current state
15 and federal income taxes that will actually be paid on the utility's Oregon revenue.
16 This would include not only consideration of deductions, credits, and other
17 adjustments, but it would also include the effect of consolidation of PacifiCorp with its
18 parent corporation for tax purposes. The Commission should examine the history of
19 actual income taxes paid on the Oregon revenue generated by PacifiCorp and should
20 allow into rates only such current state and federal income taxes that are objectively
21 likely to be paid to those governments.

22 The Commission could also include in rates the change to the utility's balance
23 of "deferred income taxes." If utility investments have generated deferred income
24 taxes, those amounts can be included in rates, to the extent they are (1) credited as a

1 reduction to ratebase and (2) not offset by reductions in past deferred income taxes
2 (reversals of the deferrals).

3
4 **3. The Commission should true up any charges to ratepayers for "state**
5 **income taxes" and "federal income taxes" to actual payments made to**
6 **those governments.**

7
8 After allowing into rates a reasonable estimate of the current actual "state and
9 federal income taxes" to be paid on PacifiCorp's Oregon revenue, the Commission
10 should then maintain a balancing account and true up those charges to the actual
11 income taxes later paid. This will reduce the incentive for PacifiCorp to use its
12 enormous financial resources and expertise to offer the Commission a non-objective
13 view of its likely future "state and federal income taxes" in rate cases.

14 This balancing account should begin with a credit balance to ratepayers equal
15 to the quantified "state income taxes" and "federal income taxes" that PacifiCorp has
16 charged to Oregon ratepayers since its acquisition by Scottish Power in 1999, minus
17 the actual amounts of state and federal income taxes paid to those governments on
18 PacifiCorp's Oregon utility revenues.

19
20 **Q. Does this conclude your testimony?**

21 **A. Yes.**

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing TESTIMONY OF DANIEL W. MEEK by mailing a copy properly addressed with first class postage, or by electronic mail pursuant to OAR 860-013-0070, to the following parties or attorneys of parties.

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