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February 24, 2005

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Re: UM 1147

To whom it may concern:

Enclosed please find the Staff's Reply Comments in Docket No. UM 1147. I filed this document with the Filing Center on February 18, 2005, electronically (*see* Tracking #126) and by having the original and five copies hand-delivered to the Filing Center, and served the document on all the parties to this docket electronically and by regular mail. However, the electronic copies filed with the Commission and served on the parties did not have the list of parties served attached to the certificate of service, as did the original and hard copies that were hand delivered and sent by regular mail, and the Filing Center has requested that I re-file this document.

Thank you for your attention.

Very truly yours,

Stephanie S. Andrus
Assistant Attorney General

Enc.
c. Service List

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1147

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Request to Open an Investigation Related to Deferred Accounting.	STAFF REPLY COMMENTS

1. **Should the requirements for a deferral request differ depending on the circumstances underlying the request, e.g., materiality requirements that differ depending on whether the costs at issue are associated with stochastic risk or scenario risk?**

In its earlier comments, Staff created a matrix illustrating the Commissions decision in Docket No. UM 1071, Order No. 04-108. Staff added an additional column that to take into account some deferrals, such as intervenor funding, that should not have to meet a materiality threshold. PacifiCorp and PGE have discussed the matrix at length in their comments.

PacifiCorp states that “[t]he Commission has not and should not adopt a formulaic approach * * * like that contained in Staff’s proposed deferred accounting materiality matrix.” (*See* Opening Comments of PacifiCorp, pages 1 and 2.) PGE states that “The Commission should not apply a mechanical ‘materiality requirement’ or a ‘normal risk range’ for deferral applications.” (*See* Opening Comments of Portland General Electric, page 2.)

Staff believes that in Order No. 04-108, the Commission has already adopted the general guidelines described in the first two columns in Staff’s matrix. Staff proposes the Commission adopt the third column to provide parties needed clarification and guidance. Staff believes the purpose of the current investigation is for the Commission to provide

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all parties with the appropriate policy guidance for how deferred accounting requests will be considered in the future. Adoption of the matrix would continue to give the Commission wide discretion in determining, for particular circumstances, whether authorization to defer is appropriate. Staff believes that general guidelines provided by the Commission in Order No. 04-108, would provide clarity as to how the Commission will consider deferred accounting requests. To essentially "do nothing" in UM 1147 (or even not reaffirm the principles of Order No. 04-108), as PacifiCorp and PGE seem to suggest, would provide no clarity at all.

PacifiCorp additionally states that "PacifiCorp has concerns that the materiality matrix could lead to asymmetrical application of the deferred accounting statute." The company further states that PacifiCorp's approach "…eliminates the myriad questions raised…" (*See* Opening Comments of PacifiCorp, page 5.)

Staff believes there is no basis on which to expect the Commission would have a bias either for or against the utility. Moreover, staff fails to understand how the general policy guidelines proposed could result in more confusion than PacifiCorp's alternative – no policy guidelines whatsoever.

PacifiCorp argues in its opening comments on pages 5 through 8 that the nature of the risk depends on the manner in which the cost has been treated in rates. Staff generally agrees with this concept, but believes that the appropriate time to argue specific circumstances is when an application to defer is filed. If in fact a risk has been addressed in rates (i.e. normalized in rates), then it is clear that there should a higher deferred accounting hurdle. However, the opposite is not always the case. For example, if a stochastic risk is not normalized in rates, then it does not automatically get treated as

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scenario risk and face a lower deferred accounting hurdle. If a company knows a risk is stochastic and can quantify its distribution but chooses not to normalize the risk in base rates, then that choice does not guarantee a lower deferred accounting hurdle. Stochastic risks should be normalized in base rates.

2. For what types of deferrals should the Commission apply the concept of a normal risk range?

This issue should be decided on a case-by-case- basis. Staff agrees with PacifiCorp's statement "[w]ith this issue * * * there appears to be general agreement among parties that it is a poor candidate for uniform, pre-set guidelines." (*See* Opening Comments of PacifiCorp, page 8.)

3. Should deferrals be limited to the costs associated with the cost-causing factors identified in the original application for deferred accounting?

All Parties have answered yes to this question. However each Party has qualified its answer. For instance the Citizens' Utility Board (CUB) states that the "[d]eferrals should be clearly delineated, the event specifically defined, and the costs directly identifiable. Only those expenses associated with a specific event should be included." (*See* CUB Opening Comments, page 10.) PacifiCorp states "[y]es, as long as the Commission continues to apply a definition of 'cost causing factors' that is not overly restrictive." (*See* Opening Comments of PacifiCorp, page 9.)

Staff has also answered the question with a "yes." However, staff stated that if the applicant later identified costs outside the scope of the original application, a new filing should be required.

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4. What interest rate should be applied to a deferral balance?

The utilities, Idaho Power, PacifiCorp, PGE, and NW Natural, all believe that their authorized rate of return should continue to be used. Staff and all other parties believe that some sort of short-term rate should be used. This question has been well argued in opening remarks and staff's position has not changed.

5. What should be the filing requirements and process for deferred accounting investigations?

The only Party suggesting a change to current practice is PGE. The Company has outlined an elaborate series of filing requirements including a prehearing conference to be held within 30 days of the filing of the application. (*See* Opening Comments of Portland General Electric Company, Pages 20 – 21.) Staff and other Parties do not believe that any changes need to be made. Most deferral applications are straight-forward and do not require a prehearing conference. In fact, the Industrial Customers of Northwest Utilities (ICNU) state that "[a]s such, ICNU is not suggesting revisions to the filing process for deferred accounting applications at this time. The current process allows for uncontested applications to be addressed through the notice and comment process, with a decision at a public meeting, but provides a party the opportunity to request a hearing or more extensive process if warranted by a particular application." (*See* Opening Comments of ICNU, pages 17 – 18.) Staff agrees.

6. What are the alternatives to deferred accounting for recovery of excess utility costs or revenues between rate cases?

Parties agree that there are two major alternatives to a deferral application: an automatic adjustment clause or PCA under ORS 757.210 or an interim rate change under ORS 757.215. However, parties are less unified in their opinion on the merits of these

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other approaches as compared to deferred accounting. PGE states, "[d]eferred accounting has a comparative advantage in a variety of very different circumstances," and "[t]he speed of a deferred accounting application and its true-up features work to minimize time delay and ensure that customers pay only for prudently incurred costs, giving it an advantage over other ratemaking tools in this circumstance." (*See* Opening Comments of Portland General Electric Company, Pages 11 – 12.) CUB however, states that, "a general rate case should remain the primary tool we use to set rates, because it is the only tool that gets to the fundamental goal of the rate setting system, to ensure overall rates that are reflective of a utilities overall costs in a normalized, forecasted manner." (*See* CUB Opening Comments, page 14.)

7. Do the Commission's deferred accounting practices and procedures ensure symmetrical treatment of deferrals for excess utility costs and deferrals for excess utility revenues?

Staff believes that the statute authorizing the Commission to defer certain costs and revenues does provide for symmetrical treatment. However, in practice this is not often the case. Utilities file applications to recover costs more often than applications to refund revenues or pass through cost savings. Utilities disagree. PacifiCorp states that, "[t]he statutes and regulations allow for deferral of revenues as well as expenses. In PacifiCorp's case, setting aside the excess power cost application, the aggregate of all deferral orders under ORS 757.259(2)(e) has been a *net credit* to customers."

CUB states that the "[d]eferral procedures simply cannot be symmetrical, because access to information is not symmetrical. Even if the Commission were to pursue over-earning deferrals aggressively, deferrals would still be a far more useful tool for utilities than for customers." (*See* CUB Opening Comments, page 15.) Additionally, ICNU

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argues that "[t]he Commission's deferred accounting policies should recognize the one-sided nature of deferred accounting as it is typically used by utilities. The allocation of risks with respect to deferred accounting is asymmetrical because the majority of deferred accounting requests relate to utility costs." (*See* Opening Comments of ICNU.)

8. Should there be an overall cap on the amount of costs that a utility can defer in one year?

As stated in earlier remarks, Staff does not believe there should be a cap on the amount a utility can defer in one year. There is already a cap on the amount a utility can amortize into customers' rates, which limits rate volatility from deferrals. ICNU seems to be the only party that supports caps on deferrals.

ICNU states, "[i]mplementing a cap on the total amount of costs deferred in one year would help prevent the 'ballooning' of a deferral balance beyond a manageable amount and would require utilities to file rate cases when large cost increases occur rather than seeking to recover those costs through deferred accounting." (*See* Opening Comments of ICNU, page 20.)

CUB states, however, that, "[t]herefore, we favor other restrictions on the overuse of deferrals without establishing an annual overall cap." (*See* CUB Opening Comments, page 16.)

9. What must an applicant show to demonstrate that a deferral under ORS 757.259(2)(e) will either (a) minimize the frequency of rate changes or fluctuation of rate levels, or (b) match ratepayer benefits and costs?

Staff has explored this question in earlier comments and believes that deferral applications should be more comprehensive than they are currently. There should be more "proof" that the deferral meets the conditions under ORS 757.259(2)(e). The utility companies all state that the requirements associated with the current applications are

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sufficient and that no further proof is needed. In fact, PacifiCorp states that "[i]f the allegations in the application are not challenged, then the application would be a sufficient basis for the Commission's findings." (*See* Opening Comments of PacifiCorp, page 13.) Staff would like to see the bar raised higher than PacifiCorp's comments would seem to place it.

10. What types of costs are eligible for deferred accounting, e.g. do they have to be extraordinary, unanticipated, nonrecurring, and/or discrete?

Please refer to staff's earlier comments to Issue No. 1 and the matrix staff created. Costs in the "Commission Approved" column of the martrix, e.g., DSM costs or Intervenor Funding, do not have to be extraordinary, unanticipated, or nonrecurring. However, costs in any of the three categories shown in the matrix should be discrete and well-defined.

Utilities do not believe that deferred accounting applications should be limited in this fashion. In fact, PacifiCorp states, "[c]osts do not need to meet any of these tests to be eligible for deferred accounting." (*See* Opening Comments of PacifiCorp, page 14.)

ICNU and CUB would apply restrictions to the types of costs that are allowed to be deferred. CUB states that "[c]osts that are eligible for deferred accounting should be extraordinary, unanticipated, and discrete; in most cases, but not all cases, they should be also be nonrecurring." (*See* CUB Opening Comments, page 18.) ICNU urges the Commission to "…make specific findings in this Docket recognizing that costs are appropriate for deferred accounting are nonrecurring and that 'annual' deferrals will not be granted." (*See* Opening Comments of ICNU.)

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the Staff Reply Comments upon the parties of record in docket UM 1147 on February 18, 2005, by email and first-class mail, addressed to said parties/attorneys' addresses as shown below.

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DATED: February 23, 2005.

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