STOEL RIVES LLP
ATTORNEYS AT LAW

900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
main 503.224.3380
fax 503.220.2480
www.stoel.com

KEVIN T. FOX
Direct (503) 294-9139
ktfox@stoel.com

April 21, 2005

VIA ELECTRONIC FILING

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

Re: Docket UM 1147

I enclose for filing PacifiCorp's Reply Comments Phase II in the above-referenced docket. A copy of this filing has been served on all parties to this proceeding as indicated on the attached certificate of service.

Very truly yours,

Kevin T. Fox/hs

Kevin T. Fox

KTF:hhs
Enclosure
cc: Service List

Oregon
Washington
California
Utah
Idaho

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	**PACIFICORP'S REPLY COMMENTS PHASE II**

I. INTRODUCTION

PacifiCorp respectfully submits the following reply comments in Docket No. UM 1147. In this second phase of UM 1147, the parties have been asked to address whether a different rate of interest should be applied to authorized deferred accounts during amortization. Prehearing Conference Memorandum Issued by ALJ Kirkpatrick, UM 1147 (Jan. 25, 2006).

The Commission should continue its policy of compensating utilities for the overall risk they bear and not depart from this policy in order to assign risk on an individual investment-by-investment basis. The Commission's current policy is fair, appropriate and easy to administer. In contrast, Staff's proposal fails to appreciate the risks associated with deferred accounting and lacks an understanding of the way utilities presently fund deferred accounts. For these reasons, Staff's proposal should be rejected and the Commission's current policy retained.

II. ARGUMENT

A. The Commission Should Apply an Interest Rate To Deferred Accounts That Reflects the Degree of Risk When Funds are Expended, Not the Degree of Risk After a Deferred Account Has Been Approved for Amortization.

Staff asserts in its phase II opening comments that "[t]he absence of risk associated with the utilities' recovery of deferred amounts *that are to be amortized* justifies application

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600, Portland, OR 97204
Main (503) 224-3380 Fax (503) 220-2480

of an interest rate that is lower than the authorized rate of return applied to the utilities' capital investments." Staff Comments at 1-2 (March 16, 2006) (italics added).

Rather than focus on the time at which funds are expended, Staff proposes that the Commission look to a period after a deferred account is authorized and assign a correspondingly low interest rate to the amounts that are authorized for recovery. This approach has two fundamental flaws. First, it focuses on a utility's risk of recovering expenses once an expenditure has been authorized for recovery. Staff's proposal does not look at the risk of recovery at the time capital is expended. Second, Staff's proposal only looks at the risk of recovering amounts that are approved for deferred accounting, not the risk of recovering the total amount a utility expends.

Cost of capital varies according to risks present when funds are obtained and expended. In the case of deferred accounts, funds are often expended prior to amortization, when risks equal those of capital investments to which a utility's authorized rate of return applies. *See* Staff Comments at 1 (March 16, 2006) ("The risk of non-recovery also applies to deferred accounts until the Commission determines how much will be recovered from, or refunded to, customers."). Pre-amortization risks include the possibility that an investment may be discounted or disallowed upon (a) prudence review, (b) earnings test, (c) sharing or deadbands in a deferral mechanism, or (d) incursion of costs before the filing of a deferred accounting application. Even post-amortization, investments may be discounted or disallowed through a modification of a prior order authorizing deferred accounting. *See* Staff Comments at 3 (Jan. 18, 2005). Thus, there is substantial risk associated with funds expended in anticipation of deferred accounting. Staff's proposal fails to adequately compensate utilities for these risks.

Staff's proposal also fails to reflect a utility's risk of recovering the total amount it expends. Instead, Staff's proposal only looks at a utility's risk of recovering amounts that are authorized. This approach ignores the fact that the Commission often authorizes less than a

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600, Portland, OR 97204
Main (503) 224-3380 *Fax (503) 220-2480*

full recovery of expenditures. For example, the Commission authorized the recovery of only half the money PacifiCorp expended on excess power costs during California's energy market failures. *See* UM 995, Order No. 02-469 at 2. As PGE states, an order authorizing amortization of less than the full amount expended by a utility does not eliminate that utility's risk, it confirms it. PGE Comments at 3 (March 16, 2006).

Staff's proposal also reduces the interest rate on authorized deferred accounts without increasing the interest rate on expenditures made prior to deferred account authorization. This is despite the fact that Staff acknowledges that substantial risk of non-recovery applies to deferred accounts until the Commission determines how much will be recovered. Staff Comments at 1 (March 16, 2006). Accordingly, Staff's proposal is asymmetric and unfair to shareholders who expend funds in the public interest.

If PacifiCorp had the foresight to predict whether the funds it expends "are to be amortized" then Staff's assertion of reduced risk may be valid. Unfortunately, PacifiCorp lacks the ability to accurately predict whether the funds it expends will be recovered pursuant to an authorization of deferred accounting. For this reason, it is inappropriate to assign a low rate of return to an expenditure that bears significant risk of less than full recovery.

B. The Commission Should Retain Its Policy of Applying a Utility's Authorized Rate of Return to Deferred Account Balances.

Deferred expenses represent amounts expended by shareholders to serve the public. Shareholders are entitled to the same return on these funds as they are authorized to receive on other capital dedicated to public service.

Staff claims that "deferred accounts are not like capital investments," therefore, "a utility cannot argue that it funds deferred accounts like any other capital investment." Staff Comments at 2 (March 16, 2006). None of the utilities in this docket have argued that deferred accounts are "like capital investments." Rather, the utilities in this proceeding have

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600, Portland, OR 97204
Main (503) 224-3380 Fax (503) 220-2480

argued that deferred accounts are *funded just like any other capital expense* – with an unspecified mix of debt and equity. PacifiCorp Comments at 2 (March 16, 2006); PGE Comments at 2 (March 16, 2006); Idaho Power Comments at 3 (March 16, 2006). Since deferred accounts are funded like other capital expenses, it is appropriate to assign the same rate of return to deferred accounts as is assigned to other capital investments, namely the utility's authorized rate of return.

Staff also states that "it is not necessarily appropriate to match the utilities' short-term assets or liabilities [deferred accounts] with the cost of its long-term funding sources." Staff Comments at 3 (March 16, 2006). Staff seems to assume that PacifiCorp funds deferred accounts through discrete acquisitions of short-term debt instruments. Because PacifiCorp funds deferred accounts with debt and equity, it is appropriate to look to PacifiCorp's long-term funding sources, debt and equity, in assigning an interest rate to deferred accounts. *See* Staff Comments at 4 (March 16, 2006) ("it is appropriate to apply an interest rate to deferred amounts that have been approved for amortization that reflects the risk, duration, and true cost of funds needed to meet the obligations associated with deferred accounts.").

III. CONCLUSION

The Commission should retain its long-standing practice of applying a utility's authorized rate of return to deferred balances. If, however, the Commission decides to depart from this policy, PacifiCorp believes that an evidentiary hearing with oral argument is required since no evidence has been presented to indicate that PacifiCorp's cost of carrying its deferred balances is less than its costs of funding of other capital expenditures.

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600, Portland, OR 97204
Main (503) 224-3380 Fax (503) 220-2480

DATED: April 21, 2006.

STOEL RIVES LLP

Katherine A. McDowell
Kevin T. Fox

Attorneys for PacifiCorp

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600, Portland, OR 97204
Main (503) 224-3380 Fax (503) 220-2480

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document on the following named person(s) on the date indicated below by

- ☒ mailing with postage prepaid
- ☐ hand delivery
- ☒ electronic mail
- ☐ overnight delivery

to said person(s) a true copy thereof, contained in a sealed envelope, addressed to said person(s) at his or her last-known address(es) indicated below.

Rates & Regulatory Affairs
Portland General Electric Co
121 SW Salmon Street, 1WTC0702
Portland, OR 97204
pge.opuc.filings@pgn.com

Stephanie S. Andrus
Department of Justice
Regulated Utility & Business Section
1162 Court Street NE
Salem, OR 97301-4096
stephanie.andrus@state.or.us

Katherine Barnard
Cascade Natural Gas
PO Box 24464
Seattle, WA 98124
kbarnard@cngc.com

Joanne M. Butler
Idaho Power Company
PO Box 70
Boise, ID 83707-0070
jbutler@idahopower.com

Jason Eisdorfer
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308
Portland, OR 97205
jason@oregoncub.org

Edward A. Finklea
Cable Huston Benedict
Haagensen & Lloyd LLP
1001 SW 5th Avenue, Suite 2000
Portland, OR 97204
efinklea@chbh.com

Jessica Gorham
Ater Wynne, LLP
222 SW Columbia Ste 1800
Portland, OR 97201
jac@aterwynne.com

Robert Jenks
Citizens' Utility Board of Oregon
610 SW Broadway, Suite 308
Portland, OR 97204
bob@oregoncub.org

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600, Portland, OR 97204
Main (503) 224-3380 Fax (503) 220-2480

Judy Johnson
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148
judy.johnson@state.or.us

Barton Kline
Idaho Power Company
PO Box 70
Boise, ID 83707-0070
bkline@idahopower.com

Alex Miller
Northwest Natural Gas Company
220 NW Second Avenue
Portland, OR 97209-3991
alex.miller@nwnatural.com

Matthew W. Perkins
Davison Van Cleve, PC
333 SW Taylor, Suite 400
Portland, OR 97204
mwp@dvclaw.com

Paula E. Pyron
Northwest Industrial Gas Users
4113 Wolf Berry Court
Lake Oswego, OR 97035-1827
ppyron@nwigu.org

Lisa F. Rackner
Ater Wynne, LLP
222 SW Columbia Ste 1800
Portland, OR 97201
lfr@aterwynne.com

Jon T. Stoltz
Cascade Natural Gas
PO Box 24464
Seattle, WA 98124
jstoltz@cngc.com

Douglas C. Tingey
Portland General Electric
121 SW Salmon, 1WTC13
Portland, OR 97204
doug.tingey@pgn.com

S. Bradley Van Cleve
Davison Van Cleve
333 SW Taylor, Suite 400
Portland, OR 97204
mail@dvclaw.com

DATED: April 21, 2006.

Kevin T. Fox

Of Attorneys for PacifiCorp

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600, Portland, OR 97204
Main (503) 224-3380 *Fax (503) 220-2480*