

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **UM 1147**

4 In the Matter of PUBLIC UTILITY
5 COMMISSION OF OREGON Staff Request
6 to Open an Investigation Related to Deferred
7 Accounting.

8 STAFF REPLY COMMENTS RE: ISSUES LIST

9 Pursuant to the hearing officer's Prehearing Conference Memoranda issued July 26 and
10 July 28, 2004, Staff of the Public Utility Commission of Oregon submits the following
11 comments responding to some of the opening comments filed by other parties on October 7,
12 2004. Rather than commenting on the merits of the positions raised by the parties in their
13 Opening Comments, Staff will limit its Reply Comments to those regarding the appropriate
14 process for the remainder of this docket.

15 There is common ground in the Opening Comments filed by the parties. Generally, the
16 parties, including Staff, believe that it is not necessary for the Commission to take evidence to
17 consider what should be questions of general policy. For example, the Industrial Customers of
18 Northwest Utilities (ICNU) state that "the goal in this proceeding should be for the Commission
19 to examine its policies, practices, and procedures under the deferred accounting statutes and
20 rules, and establish generic standards that apply to deferred accounting requests." (Comments of
21 ICNU at 1.) Similarly, PacifiCorp states that the significant issue of the docket is to examine
22 the Commission's flexibility with respect to deferred accounting. (Opening Comments of
23 PacifiCorp at 3.)

24 Notably, Portland General Electric (PGE) does ask the Commission to consider fact-
25 specific issues related to power-cost deferrals for which evidence would be necessary. However,
26 PGE acknowledges that these fact-specific issues can be bifurcated from policy issues presented
in the docket. Further, PGE acknowledges that general policy issues can *likely* be resolved
without the taking of evidence. (*See* Opening Comments of PGE at 14 "[i]f this proceeding is

1 bifurcated [into two separate parts (1) power cost related deferred accounting and (2) all other
2 deferred accounting applications] then the non-power cost portion of this docket can be resolved
3 based on two rounds of comments without a hearing.[.]” (footnote omitted.)

4 After reviewing the parties’ opening comments, Staff agrees with the majority of the
5 parties that that this docket should be devoted to clarifying and if necessary, revising the
6 Commission’s policies regarding deferred accounting. Accordingly, to avoid ambiguity as to
7 whether this docket should include an evidentiary phase, Staff recommends that the Commission
8 limit its decision making to such policy matters.

9 In order to implement this recommendation, the Commission must avoid fact-specific
10 decision making. The difference between questions of policy and more fact-specific issues is
11 highlighted in portions of PacifiCorp’s opening comments. For example, PacifiCorp’s
12 comments regarding Issue No. 2 (“[u]nder what circumstances is a particular deferral not within
13 the normal risk range that utilities absorb between rate cases[.]”) include the following distinction
14 between a fact-based and policy issue:

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16 If the question is, what is a utility’s normal risk range between rate cases,
17 then an evidentiary hearing will be needed to take testimony on each utility’s
18 capacity to absorb financial risk between rate cases. PacifiCorp recommends
19 against this course. If the question is restated[, for what types of deferrals should
20 the Commission apply the concept of a normal risk range and how should it
21 decide the size of the range], it can be addressed on a policy basis and evidence
22 on the issue will not be needed. (Opening Comments of PacifiCorp at 4-5.)

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24 PacifiCorp’s comments regarding Issue No. 8, (“[s]hould there be an overall cap on the
25 amount of costs that a utility can defer in one year[.]”) describe how this issue could be also be
26 interpreted as one of policy or fact:

27 [Issue No. 8] implicates the level of flexibility that the Commission should
28 maintain in its ability to respond to applications of deferred accounting.

29 * * * * *

30 If a cap on annual deferrals is considered, PacifiCorp will want to
31 introduce into the record summarizing the size of deferrals requested and

1 approved within a given year and perhaps evidence regarding the range of cost
2 volatility it faces. (Opening Comments of PacifiCorp at 10.)

3 As noted by the Citizens' Utility Board in its Opening Comments, future deferral
4 proceedings will most likely require fact finding and discovery at various stages, but these things
5 are not necessary in this policy docket. (CUB Opening Comments at 1.) To the extent the
6 Commission must engage in fact-specific inquiries associated with deferred accounting, it should
7 do so in connection with specific deferral applications.

8 Staff disagrees with PGE's recommendation to bifurcate the docket to allow for a fact-
9 specific inquiry into power cost deferrals. Staff agrees that issues presented by power cost
10 deferral applications may be more homogeneous or limited in comparison to issues that are
11 presented by a wide range of deferral applications. However, the differences among the utilities
12 are too significant to allow the Commission to make fact-specific decisions that could apply
13 across the board to all the utilities in future power cost deferral proceedings.

14 Accordingly, to the extent that PGE would like the Commission to consider issues related
15 to the ratemaking treatment of power cost variances for all utilities, the Commission should
16 decline to do so. To the extent PGE would like the Commission to consider such issues with
17 respect to PGE, PGE should request that the Commission do so using a vehicle other than this
18 general deferred accounting investigation.

19 **Process.**

20 While PacifiCorp believes that the issues presented are policy issues, it also believes it is
21 appropriate to include in the record the utilities' deferred accounting balances and circumstances
22 underlying the authorization of all the utilities' deferred accounts. (Opening Comments of
23 PacifiCorp at 3.) PacifiCorp suggests that this information, and information other parties may
24 wish to include in the record, be placed in the record by stipulation of the parties. PacifiCorp
25 suggests that once the parties have stipulated to a record, the parties could file simultaneous
26 opening and reply briefs followed by oral argument to the Commission or ALJ. (Opening
Comments of PacifiCorp at 12.)

1 Staff believes that PacifiCorp's proposal to include in the record in this proceeding
2 information regarding the Commission's past authorizations of deferred accounts has merit.
3 Staff believes that parties could refer to the Commission's previous orders regarding deferrals in
4 any comments or briefs filed in this proceeding whether information regarding those orders is
5 included as information "in the record." However, Staff believes that it would nonetheless be
6 convenient to the parties and the Commission to have this information included in the record.

7 Accordingly, Staff supports PacifiCorp's suggestion to include information regarding the
8 Commission's past decisions relating to deferred accounting in the record. Staff also
9 recommends that the hearing officer allow further comments (or briefs) to allow the parties to
10 fully develop the issues presented in the docket. Finally, Staff recommends that the hearing
11 officer schedule an opportunity for oral presentations to the hearing officer or Commission.

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DATED this _____ day of October 2004.

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Respectfully submitted,

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