

Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com
Suite 400
333 S.W. Taylor
Portland, OR 97204

May 12, 2005

Via Electronic and US Mail

Public Utility Commission of Oregon
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of PACIFIC POWER & LIGHT Application for Power Cost
Adjustment Mechanism
Docket No. UE 173

Dear Filing Center:

Enclosed please find an original and two copies of the Response in Opposition on behalf of the Industrial Customers of Northwest Utilities in the above-captioned proceeding.

Please return one file-stamped copy of the document in the self-addressed, stamped envelope provided. Thank you for your assistance.

Sincerely,

/s/ Christian Griffen
Christian W. Griffen

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Response in Opposition on behalf of the Industrial Customers of Northwest Utilities upon the parties on the service list, shown below, by causing the same to be mailed, postage-prepaid, through the U.S. Mail.

Dated at Portland, Oregon, this 12th day of May, 2005.

/s/ Christian Griffen
Christian W. Griffen

LOWREY R BROWN CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY, SUITE 308 PORTLAND OR 97205 lowrey@oregoncub.org	DATA REQUEST RESPONSE CENTER PACIFICORP 825 NE MULTNOMAH, SUITE 800 PORTLAND OR 97232 datarequest@pacificorp.com
JASON EISDORFER CITIZENS' UTILITY BOARD OF OREGON 610 SW BROADWAY STE 308 PORTLAND OR 97205 jason@oregoncub.org	MAURY GALBRAITH PUBLIC UTILITY COMMISSION PO BOX 2148 SALEM OR 97308-2148 maury.galbraith@state.or.us
D DOUGLAS LARSON PACIFICORP ONE UTAH CENTER 201 SOUTH MAIN STREET, SUITE 2300 SALT LAKE CITY UT 84111 doug.larson@pacificorp.com	KATHERINE A MCDOWELL STOEL RIVES LLP 900 SW FIFTH AVE STE 1600 PORTLAND OR 97204-1268 kamcdowell@stoel.com

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 173

In the Matter of)	
)	
PACIFICORP)	RESPONSE OF THE INDUSTRIAL
)	CUSTOMERS OF NORTHWEST
Application for Approval of Power Cost)	UTILITIES IN OPPOSITION
Adjustment Mechanism.)	
_____)	

Pursuant to OAR § 860-013-0025, the Industrial Customers of Northwest Utilities (“ICNU”) submits this Response in Opposition (“Response”) to PacifiCorp’s application for approval of a power cost adjustment mechanism (“PCAM”) in the Public Utility Commission of Oregon (“OPUC” or the “Commission”) Docket No. UE 173. ICNU’s Response does address the substantive issues raised by PacifiCorp’s PCAM application, but requests that the Commission defer consideration of the merits of the PCAM until the completion of an evidentiary hearing pursuant to ORS § 757.210. ICNU specifically requests an evidentiary hearing pursuant to ORS § 757.210. The Commission should conduct this evidentiary hearing after the completion of PacifiCorp’s already filed general rate case since the general rate case is considering many similar issues.

I. BACKGROUND

On November 11, 2004, PacifiCorp filed a general rate case, Docket No. UE 170, with new tariffs and testimony requesting a rate increase of approximately \$102

million, including an approximately 21.6% base rate increase for industrial customers. PacifiCorp subsequently updated its power cost information to request an approximately \$112.5 million overall rate increase. A partial settlement of certain enumerated revenue requirement issues has been reached between PacifiCorp, ICNU, the Commission Staff, the Citizens' Utility Board, and Fred Meyer, and has reduced the overall requested rate increase by approximately \$30 million.

PacifiCorp's general rate case included, among other things, a request to increase its rate of return, significant increases in the Company's overall power costs, a new hydro normalization model, and an annual power cost valuation mechanism. Re PacifiCorp, Docket No. UE 170, PPL/100, Furman/9-10; PPL/600, Widmer/1-3; PPL/700, Omohundro/9-13 (Nov. 11, 2004). Although power costs, risk and earnings have been and remain important issues in PacifiCorp's general rate case filing, PacifiCorp elected not to file its PCAM as part of its direct testimony.

On April 15, 2005, PacifiCorp filed a notice of application of a request for an order approving a PCAM, Docket No. UE 173. The PCAM is a prospective request for the Commission to approve an automatic adjustment clause, pursuant to ORS § 757.210. Re PacifiCorp, Docket No. UE 173, Application at 1 (Apr. 15, 2005). Under an automatic adjustment clause, if approved, PacifiCorp can increase rates without conducting an evidentiary hearing. ORS § 757.210(1). The PCAM would allow PacifiCorp to change its rates and to charge to ratepayers a larger portion of the variations in the Company's net power costs. Application at 1. As proposed, the PCAM will allow

PAGE 2 – ICNU'S RESPONSE IN OPPOSITION

PacifiCorp to increase its rates in the future without an evidentiary hearing and would exempt certain costs from any future prudence reviews. Id.; PPL/200, Widmer/10.

PacifiCorp's PCAM application does not adequately explain why the Company failed to file the request as part of its ongoing general rate filing or why the Commission should adopt a PCAM at the same time it is reviewing similar issues regarding power costs, risk and earnings in the general rate case. In contrast, the Company included a PCAM proposal in its recently filed Washington general rate case. Re PacifiCorp, WUTC Docket No. UE-050684, Direct Testimony of Donald Furman at 19-21 (May 5, 2005).

On April 20, 2005, PacifiCorp filed a motion requesting that the Commission consolidate its PCAM application with a previously filed application to defer its alleged excess net hydro power costs in Docket No. UM 1193. ICNU does not believe that there is any relationship between the PCAM and the hydro deferral, and ICNU filed an answer in opposition to PacifiCorp's motion to consolidate on April 25, 2005. PacifiCorp deferred this motion at the April 26, 2005 Prehearing Conference in UM 1193. Although PacifiCorp has not made a formal request, counsel for PacifiCorp wrote in an April 29, 2005 email to Administrative Law Judge Logan that PacifiCorp has renewed its request to consolidate the dockets. In the email, counsel for PacifiCorp also requested that a prehearing conference be scheduled in UE 173, and that the motion to consolidate be argued at the UE 173 prehearing conference.

PAGE 3 – ICNU'S RESPONSE IN OPPOSITION

III. RESPONSE

ICNU is not providing a substantive response to PacifiCorp's PCAM application or testimony at this time, but requests that the Commission conduct an evidentiary hearing pursuant to ORS § 757.210 to investigate the reasonableness of the Company's application. ICNU, as a customer representative, has a right to request that the Commission hold an evidentiary hearing to investigate the reasonableness of PacifiCorp's PCAM application. ORS § 757.210(1). ICNU believes that it would be premature to provide detailed, substantive comments regarding the PCAM prior to conducting discovery on the application and the completion of a formal hearing regarding PacifiCorp's proposal. After the Commission suspends PacifiCorp's application, ICNU intends on providing a substantive critique of PacifiCorp's PCAM application through expert testimony, cross-examination at an evidentiary hearing, written briefs, and oral argument.

ICNU urges the Commission to suspend the PCAM application and consider the request after the completion of PacifiCorp's general rate case filing. ICNU strongly believes that it is inappropriate to consider the PCAM application in a separate docket while a general rate case is pending. A PCAM, if approved, would significantly reduce the Company's risk, and the Commission should accordingly reduce its approved return on equity. However, it is inappropriate to consider the impacts of the PCAM on PacifiCorp's return on equity before the Commission has set an authorized return on equity in the general rate case.

PAGE 4 – ICNU'S RESPONSE IN OPPOSITION

There are many other substantive issues raised in the PCAM that would be impacted by the Commission's order in the general rate case, including the overall net power cost level, whether the Commission allows PacifiCorp to adopt a resource valuation mechanism ("RVM"), and issues related to the Multi-State Process and Revised Protocol. Both the PCAM and the RVM are proposals to shift the risk of power cost variations from the Company to ratepayers. These two proposals should not be considered in isolation. If the Commission is considering the adoption of a PCAM, it should consider the RVM in the same proceeding or have already resolved the issue of whether an RVM is appropriate for PacifiCorp. Since PacifiCorp did not file the PCAM in its general rate case, the Commission should only consider it after these issues have been resolved in the general rate case and the Commission can determine their relationship to the proposed PCAM.

III. CONCLUSION

ICNU respectfully requests that the Commission suspend PacifiCorp's PCAM application, defer consideration of the proposed PCAM until the issues in UE 170 have been resolved, and then conduct a hearing to investigate the reasonableness of the Company's proposed automatic adjustment clause.

Dated this 12th day of May, 2005.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Melinda J. Davison

Melinda J. Davison

Irion Sanger

Davison Van Cleve, P.C.

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242 phone

(503) 241-8160 facsimile

mail@dvclaw.com

Of Attorneys for Industrial Customers

of Northwest Utilities