

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 173

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

The Industrial Customers of Northwest Utilities (“ICNU”) requests that the Oregon Public Utility Commission (“OPUC” or the “Commission”) deny PacifiCorp’s (or the “Company”) Application for approval of a power cost adjustment mechanism (“PCAM”). The Commission should reject PacifiCorp’s request for a PCAM because it would unjustifiably shift the majority of the risk associated with power cost variations from the Company to ratepayers and could provide PacifiCorp with inappropriate regulatory incentives. In addition, PacifiCorp’s proposed PCAM would require Oregon ratepayers to shoulder more than their fair share of costs associated with hydro shortfalls. Finally, the Company’s proposal is unacceptable because it does not include a reasonable mechanism for allocating the risk of net variable power costs between the Company and its customers.

Because the evidence in this proceeding has not demonstrated that PacifiCorp’s current rates and regulatory tools are insufficient as to warrant the adoption of a PCAM, the Commission should also reject Staff’s and the Citizens’ Utility Board’s

("CUB") proposed PCAMs. In addition, Staff's proposal for an interim PCAM that would incorporate deferred costs in a separate proceeding is illegal because it would result in retroactive ratemaking. However, if the Commission elects to adopt a PCAM for PacifiCorp, then the Commission should adjust the Company's return on equity ("ROE") to compensate customers for some of the increased risk a PCAM would allocate to customers, and it should adopt a proposal that includes a large deadband with reasonable sharing percentages.

I. BACKGROUND

On April 15, 2005, PacifiCorp filed a notice of application of a request for an order approving a PCAM. The PCAM is a prospective request for the Commission to approve an automatic adjustment clause under ORS § 757.210. Re PacifiCorp, OPUC Docket No. UE 173, Application at 1 (Apr. 15, 2005). If approved, this automatic adjustment clause would allow PacifiCorp to increase rates without an evidentiary hearing. ORS § 757.210(1). The PCAM would allow PacifiCorp to charge to ratepayers the vast majority of all variations in the Company's net power costs. Staff/300, Galbraith/12. It also would exempt certain costs from any future prudence reviews. PPL/200, Widmer/10.

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 opposed the motion to consolidate because the PCAM and hydro deferral address significantly different issues and consolidation would have inserted undue confusion into both

proceedings. Administrative Law Judge Logan did not consolidate the proceedings and suspended the hydro deferral proceeding until further notice so that the parties could focus on the issues in the PCAM proceeding. Re PacifiCorp, OPUC Docket No. UM 1193, Ruling (May 26, 2005). Therefore, the majority of the evidence regarding the hydro deferral is not in this proceeding.

ICNU, Staff, and CUB each submitted direct testimony in this docket on August 19, 2005. The three parties all opposed PacifiCorp's proposed PCAM; however, Staff and CUB each proposed alternative PCAMs. In addition, Staff proposed that the Commission adopt a retroactive "interim" PCAM for the period February 1, 2005, through December 31, 2006, based on PacifiCorp's application for deferral of costs related to alleged hydro shortfalls in Docket No. UM 1193.

II. LEGAL STANDARD

PacifiCorp has the burden of proof to establish that its proposed PCAM will result in fair, just, and reasonable rates. ORS § 757.210(1) (2003); Pac. Northwest Bell Tel. Co. v. Sabin, 21 Or. App. 200, 213 (1975). The Commission also has the independent responsibility to ensure that PacifiCorp's customers are only charged just and reasonable rates. ORS § 756.040(1) (2003); Pac. Northwest Bell Tel. Co., 21 Or. App. at 213. The burden of proof is borne by the Company "throughout the proceeding and does not shift to any other party." Re PacifiCorp, OPUC Docket No. UE 116, Order No. 01-787 at 6 (Sept. 7, 2001).

PacifiCorp is requesting that the Commission approve its PCAM proposal after the Commission recently approved a rate increase for PacifiCorp finding that its

rates are “fair, just and reasonable.” Re PacifiCorp, OPUC Docket No. UE 170, Order No. 05-1050 at 29 (Sept. 28, 2005) (“Order No. 05-1050”). In Docket No. UE 170, the Commission adopted a stipulated return on equity and power costs, and adopted a transition adjustment mechanism (“TAM”) that allows PacifiCorp to adjust its power costs on an annual basis. Id. at 21, 29-30. These rates fully recover PacifiCorp’s power costs without the need for a PCAM.

III. ARGUMENT

A. A PCAM Is Unwarranted for PacifiCorp

The Commission should not adopt any of the PCAMs proposed by PacifiCorp, Staff, or CUB. A PCAM would shift risks traditionally borne by the utility’s shareholders to customers, when shareholders are far more capable than customers of managing power cost volatility risk. The record in this proceeding does not provide any basis for making such a shift, especially in light of the fact that the Commission has recently authorized a TAM for PacifiCorp that will accomplish many of the same functions as a PCAM.

1. Adopting a PCAM Will Result in Bad Public Policy

Traditional utility regulation involves ratemaking based on normalized, forecasted test year costs and revenues. American Can Co. v. Lobdell, 55 Or. App. 451, 454 (1982). The utility’s shareholders are entitled to the opportunity to earn a reasonable rate of return on their investment, but they must bear the risk that they will be unable to achieve that rate of return. Op. Att’y Gen. No. 6076 at 3-4 (Mar. 18, 1987). Thus, under

traditional ratemaking principles, because the utility bears the risk of revenues falling short of forecasted amounts, it is encouraged to operate efficiently. Id. at 19.

A PCAM does not erase the risk of power cost volatility; it merely shifts the risk from shareholders to ratepayers. As Staff's witness Mr. Galbraith explained, "[e]ven if the expected value of the mechanism is zero, customers face more risk because they are exposed to significant swings in rates." Staff/100, Galbraith/7. The Company has not explained why as a matter of public policy it is preferable for ratepayers, rather than shareholders, to bear this risk.

PacifiCorp claims that it needs a PCAM to increase its opportunity to earn its authorized rate of return. PPL/200, Widmer/2. It would be bad policy, however, for the Commission to authorize a PCAM for PacifiCorp to ensure that the Company earns its authorized rate of return. If the utility's rate of return is guaranteed by an eventual surcharge against ratepayers, the utility will lose its incentive to operate efficiently, and ratepayer costs will rise. Op. Att'y Gen. No. 6076 at 19. The overall result is decreased efficiency: "It is much more efficient to have the financial market diversify [net variable power cost] risk, than to allocate the risk to customers and have them bear it." Staff/100, Galbraith/7.

If the Commission approves a PCAM, PacifiCorp will have less financial incentive to select low-cost supply alternatives. For example, even if the total cost of making a transmission investment would be lower than the total cost of purchasing resources, the Company would have a financial incentive to purchase power so that the costs could be passed through to customers. ICNU/100, Falkenberg/13. Likewise, the

Company would have less incentive to increase efficiency if power costs were largely a pass-through item. Id. at Falkenberg/14; see ICNU/102, Falkenberg/1-3.

A PCAM would also complicate and intensify regulatory oversight. First, PCAM filings would need to be carefully reviewed to ensure that costs disallowed in rate cases or removed as part of rate case settlements were not included in the PCAM.

ICNU/100, Falkenberg/14-15. Second, the PCAM calculation itself would need to be audited because a PCAM would add an incentive for PacifiCorp to engage in accounting “gaming” practices. Id. at Falkenberg/17-18. Such issues have arisen in other jurisdictions that have used PCAMs. Id. at Falkenberg/18-19; ICNU/103, Falkenberg/1.

Third, the Company’s reported earnings would need to be scrutinized, because under the Company’s proposed earnings test for deferrals, the earnings reported could have a direct impact on rates under the PCAM. ICNU/100, Falkenberg/20.

2. The Company Has Not Provided Adequate Evidentiary Justification for a PCAM

PacifiCorp argues that the Commission should implement a PCAM for PacifiCorp to address volatility in power costs. PPL/100, Omohundro/2; PPL/200, Widmer/2-6. The Company, however, has not presented specific evidence to establish that current levels of power cost volatility are actually *harming* the Company. In other words, while it may be plausible *in theory* that power cost variability could affect the Company’s ability to earn its authorized rate of return, PacifiCorp has not shown that power cost volatility *actually* is having any such effect. Ms. Omohundro merely asserts

that volatile power costs may affect the Company's ability to earn its authorized rate of return "over the long term." PPL/102, Omohundro/3.

Moreover, even if power cost volatility were harming PacifiCorp, a PCAM would not necessarily be the best means for addressing the issue. Absent a PCAM, the Company will have an incentive to reduce its dependency on short-term markets. With a PCAM in place, however, PacifiCorp could have "the incentive to continue a potentially more risky strategy of over reliance on the market." ICNU/100, Falkenberg/12.

3. The TAM Already Provides Significant Protection Against Gas and Electric Price Variations

Authorizing a PCAM would also be inappropriate because it would provide PacifiCorp an additional mechanism to insulate the Company from the risk of fluctuations in power costs. Although, as described above, utilities normally manage and receive the risks and benefits of such cost variations between rate cases, the Commission recently approved the Company's TAM, which allows PacifiCorp to make annual adjustments to costs related to power cost variations. The ability to update net variable power costs annually creates an extraordinary cost recovery advantage for PacifiCorp and insulates the Company from a significant amount of risk. For example, Staff has recently recommended that the OPUC approve the Company's calendar year 2006 TAM update, which will result in a 1.5% increase to the amount of net variable power costs currently included in PacifiCorp's rates. OPUC Staff Report, Pacific Power & Light Advice Nos. 05-019 & 05-020 (Dec. 14, 2005). To authorize the PCAM in addition to the annual

update to PacifiCorp's power costs would shift an unacceptable amount of risk to customers without a corresponding adjustment to the Company's ROE.

The Company's request to implement a PCAM appears to be "the next step in an effort to move towards an 'exact cost recovery' rider." ICNU/100, Falkenberg/11. Indeed, in its order approving the TAM, the Commission noted its concern about the possible "one-sidedness" of PacifiCorp's annual updates. Order No. 05-1050 at 21. With this concern in mind, the Commission should be especially wary of adopting a PCAM for PacifiCorp at this time.

B. PacifiCorp's Proposed PCAM Has Numerous Flaws

The flaws in PacifiCorp's proposed PCAM are significant. First, PacifiCorp proposes an interstate allocation method that would require Oregon to bear a proportion of costs related to shortfalls in hydro generation and is inconsistent with the Revised Protocol. Second, PacifiCorp has not integrated a reasonable deadband or sharing mechanism into its proposed PCAM. Third, the range of costs that PacifiCorp proposes to include in its PCAM is far too broad. Fourth, PacifiCorp proposes an inappropriate carrying charge.

1. PacifiCorp's Proposed PCAM Overcharges Oregon Ratepayers

PacifiCorp's PCAM proposal misapplies the Revised Protocol in a way that results in a substantial over-allocation of costs to Oregon for hydro deficits. The Company proposes to use GRID model studies to determine the cause of power cost variations, and then allocate the power cost variations in a way that the Company claims is consistent with the Revised Protocol's allocation factors. The proposal is, however,

actually inconsistent the Revised Protocol, because it would inappropriately apply the Revised Protocol’s Embedded Cost Differential (“ECD”) allocators—which under the Revised Protocol apply only to hydro resources, Mid-Columbia contracts, and existing QF contracts—to purchased power costs. ICNU/100, Falkenberg/23. Another significant part of the problem with PacifiCorp’s proposal is that it applies the ECD calculation in the context of a PCAM. Because the ECD is based on normalized hydro levels, it is inappropriate to apply it to a situation in which actual hydro conditions differ from normalized conditions. Id. at Falkenberg/26.

The effect of PacifiCorp’s proposal would be to assign an inordinate amount of the cost responsibility for hydro variations to Oregon. Id. at Falkenberg/24. As Mr. Falkenberg demonstrates in Exhibit ICNU/104, under PacifiCorp’s proposal, Oregon would bear 59% of the cost of a hypothetical 2005 hydro shortfall. In contrast, under the Revised Protocol allocators, Oregon would bear less than 29% of these costs. Id. at Falkenberg/25. If the Commission approves a PCAM for PacifiCorp, it should allocate incremental costs of power cost variations based on the Revised Protocol’s system allocators only. Id. This position is also supported by both Staff and CUB. Staff/200, Wordley/3; CUB/100, Jenks/20-21.

2. PacifiCorp’s PCAM Lacks a Reasonable Sharing Mechanism

A glaring defect in PacifiCorp’s proposed PCAM is its lack of a deadband. A deadband is an essential component of any PCAM, because it ensures that the Company retains at least some of its traditional-ratemaking risk of cost changes between rate cases. See CUB/100, Jenks/17. Indeed, a PCAM that lacked a deadband would be

inconsistent with Commission precedent, which is to disallow recovery within a deadband that represents “risks assumed, or rewards gained, in the course of the utility business.” Re PGE, OPUC Docket No. UM 1071, Order No. 04-108 at 9 (Mar. 2, 2004).

Instead of proposing a deadband, PacifiCorp proposes a sharing mechanism that would be far more generous to the Company than sharing mechanisms that the Commission has adopted in the past. PacifiCorp’s proposal is that when total Company incremental power costs were within plus or minus \$100 million, the increment would be allocated 70% to customers and 30% to the Company. When the increment exceeded plus or minus \$100 million, it would be allocated 90% to customers and 10% to the Company. PPL/200, Widmer/7.

Even under circumstances of extreme power cost emergencies, the Commission has not allowed sharing percentages close to those in PacifiCorp’s proposal. For example, in Docket No. UM 995, the Commission required the Company to absorb 100% of excess power costs between 0 and 250 basis points. Customers and shareholders were required to share 50/50 excess power costs between 250 and 400 basis points, and 75/25 above 400 basis points. Re PacifiCorp, OPUC Docket Nos. UM 995 & UE 121, Order No. 02-469 at 3 (July 18, 2002). PacifiCorp has not provided any justification for a sharing mechanism that is any more generous to shareholders, especially under normal circumstances.

3. PacifiCorp’s Definition of Eligible PCAM Costs Is Too Broad

A PCAM should not allow the Company to recover costs related to expenses that are not volatile, significant, and beyond the Company’s control. As a

result, PacifiCorp's nebulous "definition" of allowable actual power costs, which could allow the Company to recover solid fuel costs, transmission expenses, and long-term contract costs, must be rejected. ICNU/100, Falkenberg/29-30. Solid fuel costs, transmission expenses, and long-term contract costs should not be recoverable through a PCAM because they are not highly volatile or significant, and inasmuch as they are contractually procured, they are not beyond the Company's control. Id. at Falkenberg/30.

4. **The Commission Should Not Allow PacifiCorp to Accrue a Carrying Charge on PCAM Deferrals at Its Overall Cost of Capital**

If the Commission approves a PCAM, only the after-tax deferral balance should be subject to a carrying charge, and the carrying charge should be set at PacifiCorp's short-term debt cost. ICNU/300, Gorman/8. Deferrals subject to a carrying charge should not include the full amount of the deferred fuel expense balance, because only the after-tax balance will be carried by investor capital. Id. at Gorman/8-9. The after-tax balance should be calculated based on the amount of normalized income taxes included in PacifiCorp's Oregon retail rates. Id. at Gorman/9.

The Commission should not set the carrying charge at PacifiCorp's overall cost of capital because PCA deferrals are short-term, as opposed to long-term, assets. Id. Also, short-term borrowing sources are the most prudent PCAM deferral financing vehicle because the deferral balance can fluctuate throughout the year. Id. at Gorman/9-10. Hence, the short-term debt cost should apply to PCAM deferrals. Id.

C. **The Commission Should Reject Staff's Proposed Interim and Permanent PCAMs**

As discussed above, the record in this proceeding does not provide a basis for approving a PCAM for PacifiCorp at this time. If the Commission nevertheless authorizes a PCAM, it should reject Staff's proposals for interim and permanent PCAMs.

1. **Staff's Proposed Interim PCAM Would Result in Retroactive Ratemaking and Violate the Deferred Accounting Statute**

Staff recommends that the Commission allow PacifiCorp to use its deferral request in UM 1193 as the basis for an interim PCAM to be implemented retroactive to February 1, 2005. Staff's recommendation has two major flaws: 1) it would allow the Company to defer costs that go far beyond the scope of the Company's application in UM 1193; and 2) it would require the Commission to engage in retroactive ratemaking. ICNU/200, Falkenberg/10.

The Commission sets rates on a prospective basis. See Re U.S. West Communications, OPUC Docket No. UT 135, Order No. 97-180 at 7-14 (May 22, 1997). Once new rates go into effect, "[u]tilities typically bear the risk for changes in normal operating expenses between rate cases." Re PacifiCorp, Docket Nos. UM 995/UE 121/UC 578, Order No. 01-420 at 4 (May 11, 2001). If utility costs increase or decrease between rate cases, the rule against retroactive ratemaking prevents the Commission from adjusting future rates "retroactively" to reflect those past costs. OPUC Docket No. UT 135, Order No. 97-180 at 5-9. The Commission has described the principle behind the rule as follows:

From the customer's viewpoint, the principle underlying the prohibition against retroactive ratemaking is that the customer should know what a utility service costs him at the time he takes it. The posted tariff on the day of service represents a contract between the customer and the utility. The customer should not expect to pay more and the utility should not expect to get less.

Re PGE, OPUC Docket No. UM 989, Order No. 02-227 at 8-9 (Mar. 25, 2002) (quoting Testimony of Commissioner Charles Davis on HB 2145, Mar. 21, 1987, at 3). The Commission has described the rule against retroactive ratemaking as one of the “cornerstones of Oregon regulatory law.” Id. at 8.

Oregon's deferred accounting statute, ORS § 757.259, provides a limited statutory exception to the rule against retroactive ratemaking. To comply with the statute, a deferred accounting request must identify the specific costs at issue. ORS § 757.259(2)(e). It is therefore unlawful to defer any costs without explicit Commission authorization. ORS § 757.259.

In UM 1193, PacifiCorp requested authorization to defer certain costs resulting from a shortfall in hydro generation. Staff's proposal would allow the Company to retroactively defer back to February 2005 not only the power costs resulting from poor hydro that the Company requested in UM 1193, but also other costs such as increased fuel prices, increased power prices, load increases, and plant outages. ICNU/200, Falkenberg/11. The Commission cannot lawfully authorize deferral of costs for which a valid application has not been submitted. Because PacifiCorp's UM 1193 application only requested deferral of costs related to hydro variances, Staff's proposal to expand the

scope of costs eligible for deferred accounting under the UM 1193 application is illegal and must be denied.

The basic principles regarding retroactive ratemaking confirm that retroactively authorizing an interim PCAM is unlawful. Because PacifiCorp did not submit an application to defer costs related to variations in gas and electric costs in 2005, customers have had no “notice” that these amounts might be included in future rates. PacifiCorp’s Application in UM 1193 did not provide notice because it only discussed variations in hydro generation. These circumstances invoke precisely the reason the OPUC has identified for the rule against retroactive ratemaking, that “the customer should know what a utility service costs him at the time he takes it.” OPUC Docket No. UM 989, Order No. 02-227 at 8-9.

Moreover, the UM 1193 deferral request is not at issue in this proceeding.

As Mr. Falkenberg has explained:

The parties to this proceeding have not had an opportunity to independently review the merits of the UM 1193 hydro deferral, and it would be inappropriate to consider including the hydro deferral in this proceeding without providing the parties an opportunity to submit direct testimony responding to all the issues raised in UM 1193.

ICNU/200, Falkenberg/12-13.

To the extent that the Commission considers the merits of the UM 1193 deferral request in this proceeding, it should recognize that PacifiCorp’s request to defer its alleged hydro costs should be denied because it is inconsistent with the deferred accounting standards that the Commission set out in Docket No. UM 1071. In that case,

the Commission denied Portland General Electric Company's ("PGE") request to defer costs related to hydro variations, explaining that hydro cost variations are a "stochastic risk" that are inappropriate for deferred accounting. Re PGE, OPUC Docket No. UM 1071, Order No. 04-108 at 9 (Mar. 2, 2004). Stochastic risks are already taken into account when the Commission sets normalized rates—for example, PacifiCorp uses a 50-year average of hydro conditions when it develops normalized power costs using GRID. ICNU/200, Falkenberg/13. Therefore, "the likelihood of both good and bad hydro conditions is already reflected in rates, and granting a deferral in a poor hydro year would amount to a double recovery." Id.; ICNU/201.

2. Staff Has Not Proposed a Reasonable Sharing Mechanism

Staff's proposed sharing mechanisms for the interim and permanent PCAMs are also insufficient. For the interim PCAM, Staff proposes a deadband set at plus and minus 250 basis points of ROE. Staff/100, Galbraith/21. Staff does not propose a specific deadband for the permanent PCAM, but states that a deadband set at the 10th and 90th percentiles of the net variable power cost distribution would likely be appropriate. Id. at Galbraith/13. For both the interim and permanent PCAMs, any amounts falling outside the deadband would be allocated 90% to customers and 10% to the Company. Id. at Galbraith/21, 13. While Staff's inclusion of a deadband is positive, its proposed sharing percentages are, like PacifiCorp's proposal, far more generous than justified under Commission precedent such as Docket No. UM 995. The Commission should reject Staff's proposals.

D. CUB's PCAM Proposal Is the Most Reasonable of Those Proposed

ICNU is opposed to the adoption of any PCAM in this proceeding because a PCAM is not justified based on the record in this docket. As a result, ICNU does not support approval of CUB's proposed PCAM. CUB's proposal, however, is the most reasonable of those proposed by PacifiCorp, Staff, and CUB. CUB's proposed PCAM responds only to extreme events and includes a sharing mechanism based on the Commission's decision in Docket No. UM 995. CUB/100, Jenks/27. Therefore, if the Commission adopts any PCAM in this proceeding, it should adopt CUB's proposal, modified to incorporate ICNU's proposals regarding eligible costs, the carrying charge, and ROE adjustment.

E. If a PCAM Is Adopted, the Commission Should Reduce PacifiCorp's Authorized ROE

The utility's return on equity is meant to compensate the utility for its level of risk. If the utility's risk level goes down, its authorized ROE should go down accordingly. If the Commission adopts a PCAM for PacifiCorp, the Company's risk of under-recovering its power costs, and thus, its risk of not earning its authorized ROE, will be reduced. ICNU/300, Gorman/2. Under this circumstance, it would be appropriate for the Commission to reduce PacifiCorp's ROE accordingly.

As explained above, a PCAM would not eliminate risks related to variations in power costs, it would simply shift the risks from shareholders to customers. The result will be "additional rate instability for PacifiCorp's retail customers, which will

erode their ability to manage utility purchases and meet their own budgetary requirements.” Id. at Gorman/5. To compensate customers for this added burden, the Commission should reduce customers’ base rates by making an adjustment to PacifiCorp’s authorized ROE.

ICNU recommends that if the Commission approves PacifiCorp’s PCAM, the Commission should reduce PacifiCorp’s authorized ROE of 10% by 0.25%, to 9.75%. Id. at Gorman/7. As ICNU witness Mr. Gorman explains, this adjustment, which is based on the PCAM’s impact on shareholders in terms of an improved credit rating, is “the most conservative means of estimating the ROE adjustment.” Id. at Gorman/6; ICNU/302. In fact, this adjustment would not even fairly compensate customers for the additional risk created by the PCAM, because customers, who are not involved in the utility’s procurement process, have limited, if any, options for managing price risks. ICNU/300, Gorman/7.

IV. CONCLUSION

The Commission should not authorize a PCAM for PacifiCorp at this time. Public policy considerations lead to the conclusion that PacifiCorp’s request for a PCAM should be rejected, and the record in this proceeding does not provide adequate justification for implementing a PCAM. Moreover, because PacifiCorp’s recently authorized TAM performs many of the same functions that a PCAM would provide, approving the PCAM in addition to the TAM would shift an overwhelming amount of risk to customers.

If the Commission authorizes a PCAM, it should reject PacifiCorp's proposal. PacifiCorp seeks to misapply the Revised Protocol's allocation factors so that Oregon is forced to carry an excess amount of costs related to hydro shortfalls. In addition, the Company asks the Commission to depart from precedent and allow a PCAM that lacks a deadband and includes a sharing mechanism that is gratuitously generous to shareholders. The Company also improperly requests authorization to recover costs through the PCAM that are not volatile, significant, or beyond the Company's control, and it proposes to attach a carrying charge to PCAM deferrals at its overall cost of capital, instead of its short-term debt cost.

The Commission should also reject Staff's proposal for an interim PCAM. Staff's proposal to allow the Company to defer costs retroactively to February 2005 would result in unlawful retroactive ratemaking. Furthermore, the sharing mechanism proposed by Staff for the interim PCAM is unjustifiably biased against customers.

Finally, any PCAM authorized for PacifiCorp should include a reduction in PacifiCorp's authorized ROE from 10% to 9.75% to compensate customers for the increased risk caused by the PCAM.

Dated this 22nd day of December, 2005.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Melinda J. Davison

Melinda J. Davison

Irion Sanger

Sarah C. Yasutake

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

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

December 22, 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 six copies of the Opening Brief 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/ Anna E. Studenny
Anna E. Studenny

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the Opening Brief 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 22nd day of December, 2005.

/s/ Anna E. Studenny
Anna E. Studenny

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
DAVID HATTON DEPARTMENT OF JUSTICE REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE SALEM OR 97301-4096 david.hatton@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	