

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

Swalley Irrigation District,

Complainant,

v.

PacifiCorp,

Respondent.

No. _____

Complaint

Parties

1.

Complainant Swalley Irrigation District (“Swalley”) is a special district formed under ORS Ch. 545 that provides irrigation services in Deschutes County.

2.

Respondent PacifiCorp is an investor-owned utility that is a wholly-owned subsidiary of MidAmerican Energy Holdings Company, an affiliate of Berkshire Hathaway. PacifiCorp’s headquarters are in Portland, Oregon. PacifiCorp is subject to the regulatory jurisdiction of the Oregon Public Utility Commission (“Commission”).

1 **Facts**

2 3.

3 Pursuant to ORS 758.505 *et seq.*, PacifiCorp is required to purchase electric
4 power and energy from small power production facilities at Commission-approved
5 avoided-cost prices.

6 4.

7 Swalley has taken steps to establish the 750-kilowatt (“kW”) Ponderosa
8 Hydroelectric Facility (“Facility”) as a “small power production facility” under ORS
9 758.505(9), which is also a “qualifying facility” under regulations adopted by the Federal
10 Energy Regulatory Commission, QF09-486. The Facility will generate power by
11 harnessing the energy potential resulting from channeling irrigation water previously
12 transported in an open ditch into a pipeline from the district's existing screened diversion
13 from the Deschutes River for a length of five miles, at which point the pipeline feeds into
14 a turbine/generator and then back into the open canal for continued water deliveries.
15 Significant benefits result, including public safety where urbanization surrounds the
16 open canal, the generation of energy, reduced pumping costs to farm customers due to
17 pressurization of the pipeline, and water conservation both from better management of
18 metered turnouts from the pipeline and the return of water to the Deschutes River. The
19 project will return 29 cubic feet per second permanently to the Deschutes River with a
20 priority date of 1899; this will double the current instream water right below the North

1 Canal Dam, which prior to the project was less than 30 cubic feet per second. Swalley
2 anticipates that the Facility will go on line no later than February 2010.

3 5.

4 Swalley has materially relied upon PacifiCorp's obligation to purchase the
5 anticipated power output of the Facility and upon PacifiCorp's prior oral and written
6 representations. Such reliance is exhibited by its substantial completion of the
7 conversion from open-ditch to piping, completion of an interconnection agreement with
8 PacifiCorp on September 17, 2008, obtaining financing commitments from the Oregon
9 Small Scale Energy Loan Program based upon PacifiCorp's current avoided-cost
10 prices, and completion and submission of a definitive power-purchase agreement
11 containing all of the provisions requested by PacifiCorp on July 20, 2009.

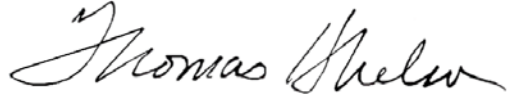
12 6.

13 PacifiCorp earlier advised Swalley that Swalley had provided all necessary
14 information and that the contract was prepared for signature and would be submitted to
15 Swalley by September 15. Notwithstanding this assurance and Swalley's steps in
16 reliance upon PacifiCorp's statutory obligation to purchase the electric power output of
17 the Facility, PacifiCorp has recently refused to execute the completed power-purchase
18 agreement Swalley submitted to it in July. PacifiCorp now states that it will only sign the
19 agreement when new, lower power-purchase prices are established by the Commission
20 pursuant to its pending Advice No. 09-012

1 **Request for Relief**

2 WHEREFORE, Swalley Irrigation District respectfully requests that the
3 Commission issue an order requiring PacifiCorp forthwith to execute the fully-negotiated
4 power-purchase agreement containing avoided-cost prices currently in effect.

5 Respectfully submitted this 21st day of August, 2009.
6

7 

8
9 Thomas H. Nelson
10 Attorney for Swalley Irrigation District
11 PO Box 1211
12 Welches, OR 97067
13 Tel: 503.622.3123
14 nelson@thnelson.com

CERTIFICATE OF SERVICE

I hereby certify that, on August 21, 2009, I served a true and correct copy of the foregoing Complaint on the following named persons/entities by depositing a true copy thereof in the United States Mail at Welches, Oregon.

ANDREA KELLY
VICE PRESIDENT, REGULATION
PACIFICORP
825 NE MULTNOMAH, SUITE 2000
PORTLAND, OR 97232

FILING CENTER
OREGON PUBLIC UTILITY COMM'N
560 CAPITOL STREET NE, NO. 215
PO BOX 2148
SALEM, OR 97308-2148

A handwritten signature in black ink, appearing to read "Thomas H. Nelson". The signature is written in a cursive, flowing style.

Thomas H. Nelson
Attorney for Swalley Irrigation District