

# LOVINGER | KAUFMANN LLP

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November 17, 2009

***Via Electronic Filing and U.S. Mail***

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

Re: In the Matter of the Complaint of  
SWALLEY IRRIGATION DISTRICT  
v. PACIFICORP d/b/a PACIFIC POWER  
OPUC Docket No. UM 1438

Attention Filing Center:

Enclosed for filing in the above-captioned docket are an original and one copy of PacifiCorp's *Motion to Dismiss*.

An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,



Ken Kaufmann

cc: UM 1438 Service List

Enclosures

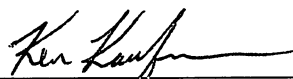
CERTIFICATE OF SERVICE

I hereby certify that, on November 17, 2009, I served a true and correct copy of the foregoing *Motion to Dismiss* on the following named persons/entities by first class mail:

THOMAS H NELSON ATTORNEY AT LAW 24525 E WELCHES RD BOX 1211 WELCHES OR 97067 <a href="mailto:nelson@thnelson.com">nelson@thnelson.com</a>	
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I hereby certify that, on November 17, 2009, I served a true and correct copy of the foregoing *Motion to Dismiss* on the following named persons/entities by electronic mail:

JORDAN A WHITE (W) SENIOR COUNSEL PACIFIC POWER & LIGHT 825 NE MULTNOMAH STE 1800 PORTLAND OR 97232 <a href="mailto:jordan.white@pacificorp.com">jordan.white@pacificorp.com</a>  KENNETH KAUFMANN (W) LOVINGER KAUFMANN LLP 825 NE MULTNOMAH STE 925 PORTLAND OR 97232-2150 <a href="mailto:kaufmann@lklaw.com">kaufmann@lklaw.com</a>	OREGON DOCKETS (W) PACIFICORP OREGON DOCKETS 825 NE MULTNOMAH ST STE 2000 PORTLAND OR 97232 <a href="mailto:oregondockets@pacificorp.com">oregondockets@pacificorp.com</a>
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Ken Kaufmann  
Attorney for PacifiCorp

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

**UM 1438**

**SWALLEY IRRIGATION DISTRICT,**

Complainant,

**vs.**

**PACIFICORP,**

Respondent.

**PACIFICORP'S UNOPPOSED  
MOTION TO DISMISS**

PacifiCorp, d/b/a Pacific Power (“PacifiCorp”), hereby respectfully moves to dismiss the complaint of Swalley Irrigation District (“Swalley”) in the above-captioned proceeding.

**A. NATURE OF THE CASE**

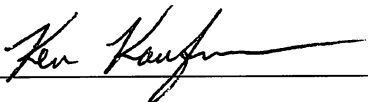
On August 21, 2009, Swalley filed a complaint requesting that the Public Utility Commission of Oregon (“Commission”) order PacifiCorp to execute a power purchase agreement (“PPA”) containing avoided cost prices in effect prior to September 2009. After further briefing and negotiation between the parties, Swalley and PacifiCorp ultimately resolved all issues in dispute. On October 21, 2009, the parties filed a Joint Submission of Settlement for Commission Approval. On November 9, 2009, the Commission, in Order 09-451, approved the settlement, but reserved judgment on the reasonableness of the parties’ PPA for ratemaking purposes.

**B. REQUESTED RELIEF**

PacifiCorp now respectfully moves the Commission to dismiss Swalley's complaint with prejudice because the settlement agreement has been fully executed and there are no remaining unresolved issues related to Swalley's complaint. PacifiCorp conferred with counsel for Swalley and Swalley concurs with PacifiCorp's motion.

Dated this 17<sup>th</sup> day of November 2009.

Respectfully submitted,

By  \_\_\_\_\_

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