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August 31, 2009

Via Electronic Filing and U.S. Mail

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

Re: SWALLEY IRRIGATION DISTRICT, Complainant, vs.
PACIFICORP dba PACIFIC POWER, Respondent
OPUC Docket No. UM1438

Attention Filing Center:

Enclosed for filing in the above-captioned docket is PacifiCorp's *Expedited Motion for Extension of Time to File Answer*. This document is being filed by electronic mail with the Filing Center.

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,


Jeff Lovinger

cc: UM1438 Service List

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1438

SWALLEY IRRIGATION DISTRICT,

Complainant,

vs.

PACIFICORP dba PACIFIC POWER,

Respondent.

**PACIFICORP'S
EXPEDITED MOTION FOR
EXTENSION OF TIME TO FILE
ANSWER**

1 Pursuant to OAR 860-013-0031, PacifiCorp, d/b/a Pacific Power, (“PacifiCorp”)
2 respectfully moves for an extension of time to respond to the complaint filed by Swalley
3 Irrigation District (“Swalley”) in the above-captioned proceeding. PacifiCorp requests
4 expedited review of this motion by August 31, 2009. PacifiCorp attempted to confer with
5 opposing counsel but was unable to contact him prior to this expedited request.

6 Swalley served its Complaint August 21, 2009. On the same day, the staff of the
7 Commission’s administrative hearings division informed PacifiCorp that its answer was
8 due in 20 days pursuant to OAR 860-013-0050(1). On August 24, 2009, staff revised its
9 position informing PacifiCorp that the Swalley Complaint is subject to OAR 860-029-
10 0100 and that PacifiCorp’s response is therefore due 10 calendar days after service
11 pursuant to OAR 860-029-0100(7).

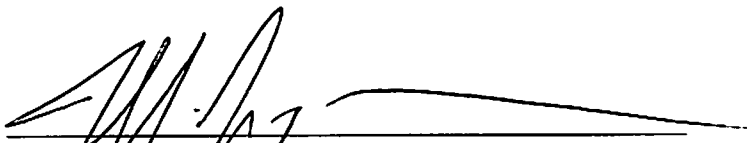
1 PacifiCorp is uncertain whether OAR 860-029-0100 applies to the Swalley
2 complaint given that the Commission’s order adopting OAR 860-029-0100 arguably held
3 that the rule does not apply to Qualifying Facilities with capacity of 10 megawatts or less.
4 *See In the Matter of a Rulemaking to Update Division 029 Rules*, OPUC Order No. 08-
5 355, 2008 Ore. PUC LEXIS 273 at p. 3 (July 7, 2008). If OAR 860-029-0100 does
6 apply, Swalley’s complaint is premature and should be dismissed because the 60-day
7 period required by OAR 860-029-0100(3)&(5)(a) has not yet elapsed. In the alternative,
8 if Swalley’s complaint is deemed timely, Swalley should be required to amend its
9 complaint and be required to file direct testimony to bring the complaint into compliance
10 with the mandatory information requirements of OAR 860-029-0100(5)&(6).

11 By separately filed motion, PacifiCorp has requested (a) that the Commission
12 determine whether the Swalley complaint is subject to OAR 860-029-0100, (b) that the
13 Commission dismiss the Swalley complaint as premature, or (c) alternatively that the
14 Commission require Swalley to amend its complaint and submit direct testimony to
15 provide the information required by OAR 860-029-0100(5)&(6). Because the Swalley
16 complaint does not provide the information required by OAR 860-029-0100(5)&(6), it is
17 difficult or impossible for PacifiCorp to meaningfully answer the complaint in
18 compliance with OAR 860-029-0100(7). Moreover, the recently changed due date for
19 the answer makes it difficult for PacifiCorp to formulate a timely answer. Finally,
20 because of the uncertainty about the applicability of OAR 860-029-0100, it is unclear
21 whether PacifiCorp’s answer is actually due ten calendar days after service of the
22 complaint.

1 WHEREFORE, PacifiCorp respectfully requests an extension of time to
2 file its answer in the above-captioned proceeding until the later of September 10,
3 2009, or five days after the Commission has decided PacifiCorp's separately filed
4 motion to dismiss or make more definite and certain.

Dated this 31st day of August 2009.

Respectfully submitted,

By 

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CERTIFICATE OF SERVICE

I hereby certify that, on August 31, 2009, I served a true and correct copy of the foregoing *Expedited Motion for Extension of Time to File Answer* on the following named persons/entities by depositing a true copy thereof in the United States Mail at Portland, Oregon

<p>Thomas H. Nelson Attorney for Swalley Irrigation District P.O. Box 1211 Welches, OR 97067</p>	<p>Filing Center Oregon Public Utilities Commission 560 Capitol St. NE, NO. 215 PO Box 2148 Salem, OR 97308-2148</p>
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Jeffrey Lovinger
Attorney for PacificCorp