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August 9, 2010

Via Electronic and U.S. Mail

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

Re: In the Matter of PACIFICORP Application to Implement the Provisions of Senate Bill 76.
Docket No. UE 219

Dear Filing Center:

Enclosed please find an original and five copies of the Opening Brief on behalf of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Thank you for your attention to this matter.

Sincerely yours,

/s/ Martin H. Patail
Martin H. Patail

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Opening Brief on behalf of the Industrial Customers of Northwest Utilities upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail where paper service has been waived.

Dated at Portland, Oregon, this 9th day of August, 2010.

/s/ Martin H. Patail
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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 219

In the Matter of	)	
	)	
PACIFICORP, dba PACIFIC POWER	)	OPENING BRIEF OF THE
	)	INDUSTRIAL CUSTOMERS OF
Application to Implement the Provisions of Senate Bill 76.	)	NORTHWEST UTILITIES

I. INTRODUCTION

The Industrial Customers of Northwest Utilities ("ICNU") submits the following opening brief regarding surcharge issues. ICNU recommends that the Oregon Public Utility Commission ("OPUC" or the "Commission") exercise its authority in this proceeding to ensure that rates are not increased any more than is required by law, and to protect ratepayers if the removal of the Klamath dams is delayed or does not occur. Although Senate Bill ("SB") 76 changes certain regulatory principles for a limited set of PacifiCorp (the "Company") assets, the Commission has the authority to reject PacifiCorp's proposed filing and require the Company to file more reasonable and less harmful tariffs. There is nothing in SB 76 which requires the Commission to impose higher-than-necessary rates, or to arbitrarily penalize industrial customers.

ICNU specifically recommends that the Commission:

- Terminate the entire surcharge filing because of the high likelihood that dam removal will be delayed or not occur;
- Alternatively, adopt an equal percentage rate spread which would fairly allocate the costs of the Klamath dam removal. PacifiCorp does not oppose the use of an equal percentage rate increase on a going-forward basis;

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- Ensure that customers paying for dam removal costs will receive refunds if PacifiCorp overcollects these costs. The Commission should maintain the "subject to refund" provisions in its tariffs and require the Company to track the Klamath collections for all customers over 1 megawatt ("MW");

- Lower the overall surcharge amount to reflect more accurate interest rates, and to account for expected load growth by scheduling periodic surcharge reductions;

- Decline PacifiCorp's request to disclaim jurisdiction under the property transfer statute. The Commission does not have the legal authority to disclaim jurisdiction, and PacifiCorp has provided insufficient information for the Commission to authorize transfer of the dams in this proceeding (it is also unclear to whom the property would be transferred); and

- The Commission should also carefully monitor PacifiCorp's Klamath dam surcharges on an annual basis and make changes in the surcharges to ensure that customers do not pay any more than necessary.

California's likely delay of the Klamath dam removal bond measure warrants termination of the Klamath surcharges until it becomes clear that California will fully contribute its portion of the costs. As explained by PacifiCorp during the legislative hearings on SB 76: "If California doesn't come up with their part of bargain, this deal's off." Hearings on SB 76 before the House Committee on Environment and Water (May 21, 2009) (Statement of Scott Bolton). California's contribution of the $250 million was described as a "cornerstone of the agreement." Id. Since there is significant doubt whether this necessary "cornerstone" will occur, the Commission should terminate the Klamath surcharges.

If the Commission does not suspend the Klamath surcharge increase, ICNU's overall recommendation would result in a 1.45% average surcharge for all customer bills, which is a reduction from the Company's proposed average 1.63% rate increase and 2% industrial rate

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increase. This proposed surcharge incorporates ICNU's recommendations regarding an equal percentage rate spread and more accurate interest rates. This recommendation would benefit all ratepayers, result in a rate decrease for all customer classes, and better ensure that customers do not overpay for dam removal costs which may never be incurred.

II. BACKGROUND

The legislature passed SB 76 to establish a framework for the collection of potential removal costs associated with PacifiCorp's Klamath dams. The legislature made a unique and entirely political policy decision to allow PacifiCorp to charge customers for Klamath dam removal costs before it is known whether the dams will be removed or what the removal costs will actually be. Although SB 76's specific requirements make dam removal more expensive than would have been the case if the dam removal costs were recovered under traditional regulation, the law does not require the Commission to abandon all traditional regulatory standards and allow PacifiCorp to increase rates higher than is necessary.

SB 76 includes a number of unique and unprecedented provisions that increase customer costs as compared to traditional Commission regulation. Unlike normal rate increase requests, PacifiCorp's Klamath surcharges became effective immediately. ORS § 757.736(2). Traditional regulation requires that costs must be "known and measurable;" however, SB 76 allows for rate increases while "there are a great number of regulatory and political hurdles" that must be "overcome before removal of the Klamath dams occurs." ICNU/100, Falkenberg/3-4. SB 76 also allows for a different recovery mechanism that, as "compared to ordinary ratemaking

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treatment," is 30% more costly to customers than the traditional ratemaking treatment in which removal costs are recovered as part of depreciation rates. Id. at Falkenberg/3.[1/]

Despite a number of provisions that increase the costs to customers of removing the Klamath dams, SB 76 includes a number of important ratepayer protections. The legislature specifically mandated that, if amounts collected exceed those needed, then customers should receive refunds or the funds be used to otherwise benefit customers. ORS § 757.736(9)(a) & (10). The Commission is also allowed to change the collection schedules to account for overcollections, changed dam removal dates, or if the dams will not be removed. ORS § 757.736(7), (9) & (10). The law mandates that the Commission should set rates as to not exceed Oregon's share of the estimated removal costs, and "[t]o the extent practicable," annual collections should remain approximately the same for each year. ORS § 757.736(3)&(7).

PacifiCorp filed its SB 76 tariffs and other documents on March 18, 2010. Consistent with SB 76, PacifiCorp increased customers' rates before the Commission's investigation into whether the rate increase was fair, just and reasonable. The Klamath surcharges included a 2% rate increase for industrial customers, with a lower 1.6% average increase and a 1.5% increase for residential customers.

[1/] PacifiCorp challenges ICNU's testimony that dam removal costs are more expensive under SB 76 than traditional regulation by claiming its economic analysis demonstrates that the KHSA is prudent. PPL/203, Kelly/3. PacifiCorp's misunderstands ICNU's testimony. Regardless of whether the costs of dam removal are prudent or reasonable, recovering the costs in the manner dictated by SB 76 is more expensive than if the same costs were recovered through traditional regulation. ICNU/100, Falkenberg/3-4.

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III. ARGUMENT

1. The Commission Should Delay the Klamath Surcharges Until It Becomes Clear that Dam Removal Will Occur

The Commission should terminate the Klamath surcharge until California decides to contribute its share of the funds necessary to remove the Klamath dams in 2020, which is a necessary pre-condition for dam removal. SB 76 provides the Commission with the authority to change or eliminate the surcharges if dam removal will not happen by 2020. California's decision to likely put off any decision regarding whether it will fund the costs of dam removal until at least 2012[2/] provides the Commission with sufficient grounds to protect Oregon ratepayers by terminating the surcharge until it becomes clear that that there will be sufficient funds from California for dam removal. This would protect ratepayers from the significant risk that dam removal will not occur or is delayed if California does not fund dam removal on a timely basis, and may not ever allocate the necessary funds.

The OPUC has the discretion under SB 76 to change or eliminate the surcharges "at any time" if it is likely that dam removal will occur after 2020. SB 76 specifically provides: "The commission may change the collection schedule if a Klamath River dam will be removed during a year other than 2020." ORS § 757.736(7). In addition, SB 76 also states that: "If one or more Klamath River dams will not be removed, the commission shall direct PacifiCorp to terminate collection of all or part of the surcharges imposed under this section." ORS § 757.736(10).

[2/] California Governor Arnold Schwartzengger announced on June 29, 2010, that he will work to delay the 2010 water bond until 2012. Governor's Schwartzenegger's press release is included with this Opening Brief as Attachment A. The Commission may take judicial notice of the press release pursuant to ORS § 40.065 (facts capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned) and ORS § 40.090 (public acts of the executive branch of other states).

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California recently announced that it may delay the vote on the state's $11 billion bond measure, which includes $250 million in Klamath dam removal bonds. The vote will not likely take place until at least 2012, and ultimate passage of the bond measure is highly uncertain. At this time, it would be imprudent to rely upon California to contribute any additional amounts toward the Klamath dam removal.

Any delay the bond vote is very important because the Klamath Hydro Settlement Agreement ("KHSA") requires California to contribute an additional amount (up to $250 million) toward dam removal. PPL/104 (KHSA § 4.1.2). California's $250 million contribution is to come from the bond measure, although California could theoretically raise the funds through other measures. Id. Given California's severe budget issues, it is highly unlikely that California's legislature will allocate general revenues or otherwise raise the money.

Any postponement of the California bond measure means that the Secretary of the Interior will be unable to make the determinations required under the KHSA, which will result in the KHSA's termination, or delay of key KHSA provisions. For example, the Secretary of the Interior is required to make a determination that California has authorized funding (or that funding is not necessary) by March 31, 2012. PPL/104 (KHSA § 3.3.4.C); ICNU/102, Falkenberg/5. Thus, the KHSA will be terminable because of the inability of the Secretary to conclude that there are sufficient funds to remove the dams. PPL/104 (KHSA § 8.11.1); ICNU/102, Falkenberg/5.

While it is possible that termination will not automatically occur if the KHSA parties amend or revise the KHSA to provide additional time, at a minimum, key milestones under the KHSA will be delayed because of any postponing of the bond measure. The

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Commission should respond to California's decision to likely delay the bond measure by terminating the Klamath surcharges until it becomes clear that California will actually allocate funds for the removal of the Klamath dams.

Even if the Commission does not decide to terminate PacifiCorp's Klamath surcharges, the Commission should recognize the problems associated with California's funding when it resolves other issues in this proceeding. For example, the Commission should ensure that customers are able to obtain refunds and the Klamath surcharges are not higher than necessary given the high likelihood that the dams will be removed later than 2020, or perhaps not at all.

2. The Commission Should Ensure that Customers Obtain Refunds Due to Klamath Surcharge Overcollections

The Klamath surcharges should be revised so that customers should be able to obtain full and complete refunds if the Commission later determines that refunds are warranted. Given the uncertainties associated with whether the Klamath dams will ever be removed, or removed by 2020, the Commission should retain the ability to provide refunds by: 1) maintaining the "subject to refund" tariff provisions; 2) tracking the amount of collections on a customer class basis; and 3) tracking collections at the customer level for all large customers.

SB 76 requires the Commission to retain the ability to refund amounts collected under the surcharges in the event that the money is not needed for dam removal. ORS § 757.736(10). The law provides that if one or more of the dams will not be removed, and excess amounts remain in the trust account, the Commission "shall order that the excess amounts be refunded to customers or otherwise be used for the benefit of customers in accordance with

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Public Utility Commission rules and policies." Id. In addition, even though both the Oregon courts[3/] and the Commission[4/] have recognized that the Commission has the authority to issue refunds, it is unclear what arguments PacifiCorp could raise against issuing refunds[5/] or what actions a future Commission would take regarding refunds. The Commission's actions today should not limit the actions available to future Commissions. The Commission should now clarify that it has the authority to require PacifiCorp to refund amounts collected pursuant to the Klamath surcharges by explicitly maintaining the subject to refund provisions in the tariffs.

PacifiCorp has argued that the Commission need not retain the subject to refund language because "the likelihood of a customer refund . . . is significantly diminished." PPL/203, Kelly/5. Customer refunds are actually very likely due to the uncertainties associated with dam removal and the higher costs to ratepayers of collecting surcharges now rather than through traditional regulation. ICNU/100, Falkenberg/3-6. More importantly, regardless of whether there is a "high" or a "low" likelihood of refunds, SB 76 requires the Commission to retain the ability to issue refunds, and the best and most clear way to guarantee that refunds can be provided is to ensure that the Klamath surcharges remain subject to refund.

The Commission should also require PacifiCorp to track collections for large customers 1 MW and above so that individual customers can obtain complete refunds. This would reduce future disputes about how much is owed to customers, and ensure that customers who leave the system, or go out of business will have their monies returned. ICNU/100,

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3/ Dreyer v. Portland Gen. Elec. Co., 341 Or 262, 284–85, 284 n17 (2006); Pacific Nw. Bell Tel. Co. v. Katz, 116 Or App 302, 310 (1992).

4/ Re PGE, Docket Nos. DR 10, UE 88 & UM 989, Order No. 08-487 at 42 (Sept. 30, 2008).

5/ For example, PacifiCorp recently argued before the Oregon Court of Appeals that refunds cannot be ordered if ICNU prevails in its Senate Bill 408 appeal.

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Falkenberg/5-6. PacifiCorp objected to tracking the refunds owed on a per customer basis in its testimony, and in discovery responses. PPL/203, Kelly/5; ICNU/102, Falkenberg/13-14. PacifiCorp's objections, however, are based on concerns regarding the difficulties and expenses associated tracking 600,000 customers. ICNU/102, Falkenberg/13. This does not provide reasonable grounds to not track surcharge collections for the Schedule 47 and 48 customers, and the few customers over 10 MWs remaining on PacifiCorp's system. PacifiCorp declined to provide any explanation regarding why it objects to tracking the refunds owed to customers sized over one, five or ten MWs. ICNU/102, Falkenberg/14.

The Commission should also require that the Klamath surcharges be tracked on customer class basis for all customers. ICNU/100, Falkenberg/6. PacifiCorp has agreed to "ICNU's request that the Company track the amount of collections on a customer class basis." PPL/203, Kelly/5.

3. The Commission Should Adopt an Equal Percentage Rate Increase for All Klamath Surcharges

The Klamath surcharges should be applied to customers on an equal percentage basis. The rate spread proposed by PacifiCorp is not based on cost of service principles, but on an arbitrary methodology that penalizes industrial customers. Neither SB 76, its legislative history nor traditional ratemaking principles provide any legitimate basis for industrial customers to pay a disproportionate share of dam removal costs, especially during these difficult economic conditions. The desire of certain parties to remove the Klamath dams is based on environmental considerations and not related to traditional reasons for retiring power generation from these dams.

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PacifiCorp's original proposed rate spread purportedly allocated the surcharges based on each class' share of generation revenues. PPL/203, Kelly/7. Dam removal costs, however, are not typically allocated in this manner, and would ordinarily be considered demand related and not spread on the basis of energy usage. ICNU/100, Falkenberg/9. In addition, these are future costs that would normally be recovered in a future rate period, including the recovery of replacement power that would likely come from other renewable energy. Id. These costs would be heavily demand related as nearly all forms of renewable energy rely heavily on investment related costs. Id. at Falkenberg/9-10. Thus, basic cost of service principles demonstrates that it is inappropriate to initially allocate these costs on a generation basis.

The actual rate spread, however, is not based on generation revenues, but for nearly all customer classes the final rate spread is limited by a floor of 1.5% and a ceiling of 2%. Id. The floor level was arbitrarily set without regard to any cost of service considerations, and if PacifiCorp had simply "used a floor of 1.63%, rather than 1.5%," the recommended surcharge would be 1.63% for all customer classes. ICNU/100, Falkenberg/10. There is no support for setting the floor level at 1.5% instead of another number.

The Klamath surcharges are not ordinary ratemaking costs and that conventional cost of service reasoning should have little bearing on the rate spread determination. ICNU/100, Falkenberg/10. The Klamath costs are a political cost that has been foisted upon ratepayers by the legislature to achieve political and environmental goals. The cost causer in this proceeding is not any particular class of customers, but the requirements of SB 76. Since SB 76 includes a revenue based cap and is similar to special purpose legislation, "it would be most reasonable to

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treat [the Klamath surcharge] as a revenue tax and apply the same percentage increase to all customer classes." Id.

PacifiCorp is now willing to use a fairer rate spread, and stated that it is not "opposed to an allocation based on an equal percentage to each customer class." PPL/203, Kelly/8. PacifiCorp makes its support for an equal percentage increase conditional on a claim that any changed allocation would "need to be done on a prospective basis." Id. The Klamath surcharges are subject to refund, so there is no basis to the Company's claim that an equal percentage surcharge could not occur both prospectively and retroactively.

4. The Klamath Surcharge Should Accurately Reflect the Estimated Costs to Comply with SB 76

The Commission should revise the Klamath surcharges to ensure that it does not overcollect the amounts needed to comply with SB 76's requirements. PacifiCorp's filing violates SB 76 because the annual collection amounts will vary, the total collections are expected to exceed Oregon's share of dam removal costs because PacifiCorp uses an arbitrarily low interest rate, and the filing fails to account for load growth. The large Facebook data center being constructed in Prineville is one example of new certain load growth.

The Klamath surcharges cannot exceed the amount of Oregon's share of the dam removal costs and should be set in a manner to ensure that PacifiCorp collects the same amount each year the surcharge is in effect. SB 76 provides that "[t]he surcharges imposed under this section may not exceed the amounts necessary to fund Oregon's share of the customer contribution of $200 million identified in the agreement in principle." ORS § 757.736(3) (emphasis added). In addition, the law provides that, "[t]o the extent practicable, the commission

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shall set the surcharges so that total annual collections of the surcharges remain approximately the same during the collection period." ORS § 757.736(7). PacifiCorp's surcharges violate both of these two requirements, and overall average surcharge should be reduced from 1.63% to 1.45%. All customer classes should be charged the 1.45% rate increase if the surcharge remains in place.

A. The Surcharges Violate SB 76 Because They Are Designed to Collect Increasing Amounts Every Year

PacifiCorp calculated the surcharges assuming that the Company will not experience any sales growth, which will result in the surcharges overcollecting amounts needed because the total annual collections will increase in each year. The Commission should remedy this problem by scheduling "periodic adjustments to reflect changes in sales" growth that should "be built into the tariffs and provide for an annual decrease in the charges . . . ." ICNU/100, Falkenberg/8.

The Klamath surcharges are an amount per kilowatt hour charge, and the total amounts collected will vary depending on the total Oregon energy consumption. Despite the poor economy, PacifiCorp has forecast that its customers' energy consumption will increase each year between now and 2020. ICNU/102, Falkenberg/4. As PacifiCorp's customers use more energy each year, then PacifiCorp will collect increasingly larger amounts from customers. Therefore, the surcharges are purposefully calculated to overcollect, and to collect different amounts each year.

PacifiCorp did not dispute that load growth will result in overcollections and different annual collections, but argued that making corrections is not necessary. PPL/203,

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Kelly/7. PacifiCorp claims it will monitor collections and file corrections in the future to incorporate actual collections and load forecasts. Id. ICNU agrees that future surcharges can be adjusted, but that is no reason not to build adjustments into the surcharges from the start. A failure to do so results in an overcollection from ratepayers. The Commission should not set a surcharge which it knows will be incorrect and will result in overcollections when there is a practical and easy solution of modifying the surcharges so that that annual collections will remain the same and not exceed the amount necessary to match Oregon's share of dam removal costs.

B. The Surcharges Should Be Based on Reasonable and Accurate Interest Rate Assumptions

The surcharge amounts should reflect reasonably conservative interest rates, not the arbitrary 3.5% interest rate that was negotiated by the parties to the KHSA who were not representing ratepayer interests. Use of inaccurate numbers that have no factual support violates SB 76's requirement that surcharges not recover more than is necessary for dam removal. Use of a too-low interest rate will also violate SB 76 by setting the surcharge in a manner that will result in the surcharges changing from year to year and having different amounts of total annual collections. Using a more reasonable, yet conservative 6% interest rate should reduce the initial surcharge amount by $1.72 million, and result in fewer surcharge adjustments in the future. ICNU/100, Falkenberg/7.

PacifiCorp includes a 3.5% interest rate assumption in calculating whether the surcharge collections will earn sufficient amounts to collect Oregon's statutorily determined share of the $200 million by 2020. ICNU/100, Falkenberg/6. The 3.5% interest rate was not set

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based on reasonable estimates of future interest rates, but based on a negotiated number agreed to by the KHSA parties, many of whom have no interest or knowledge of utility rates or interest rates.[6/] PPL/203, Kelly/6. The 3.5% interest rate is not realistic, and "is well below the current rate for conservative interest bearing investments." ICNU/100, Falkenberg/6. PacifiCorp's and ICNU's cost of capital experts have recently estimated that the single A utility bonds will be between 6.19% and 6.27%, well above the 3.5% assumed for the Klamath surcharges. Id. This type of investment would be a reasonable investment strategy for the trust fund manager. Given the historically low interest rates, it is likely that interest rates will rise even higher over the next ten years. It is reasonable for the Commission to assume that the trust fund manager (which is an affiliated company of PacifiCorp) can obtain a conservative 6% interest rate on the Klamath funds rather than the arbitrarily negotiated 3.5%.

5. The Commission Does Not Have the Legal Authority to Disclaim Jurisdiction

The Commission should reject PacifiCorp's request that the Commission disclaim jurisdiction and the Company's alternative request to approve the potential transfer of the Klamath dams contingent upon the KHSA being fully and completely implemented. SB 76 does not preempt Oregon's property transfer statute and the Commission cannot legally disclaim jurisdiction over any potential dam transfer. PacifiCorp has also failed to provide sufficient information under the property transfer statute or the Commission's rules to conditionally approve the transfer of the dams.

6/ In addition, Ms. Kelly stated at the hearing that the surcharge funds currently reside in a Wells Fargo account. It is inappropriate for PacifiCorp to utilize a bank account owned by Berkshire Hathaway, PacifiCorp's ultimate owner.

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Oregon law requires utilities to obtain Commission approval before transferring any part of property necessary or useful in the performance of its duties to the public that exceeds $100,000. ORS § 757.480. The Commission does not have the legal authority to disclaim jurisdiction over the transfer of the Klamath dams because, by using the word "shall," the statute imposes a mandatory obligation.

PacifiCorp's argument that SB 76 has preempted the property transfer statute is inconsistent with basic rules of statutory construction. SB 76 does not specifically mention the property transfer statute, and gives no indication that it makes any changes to the property transfer statute. The Oregon courts follow the well recognized rule of statutory construction that amendment by implication is not favored and only recognized when the matter is clear. Balzer Machinery Co. v. Klineline Sand & Gravel Co., 271 Or 596, 601 (1975). For example, amendment by implication is clear if two statutes are inconsistent. Id. SB 76 does not include any language indicating that the property transfer statute should be amended, or any provisions which are inconsistent with the property transfer statute. In contrast, SB 76 specifically amends the judicial review statute. ORS § 757.736(5). This demonstrates that the legislature was aware of the laws governing the Commission when it elected to amend certain statutes, but not the property transfer statute.

PacifiCorp's alternative request for conditional approval does not meet the requirements of the property transfer statute or the Commission's rules. The Commission's rules implementing the property transfer statute require a utility to provide, *inter alia*, descriptions of the facilities to be transferred, the costs of the facilities, copies of all documents (including the sales contracts), and information regarding the person or entity to whom the assets are being

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transferred to. OAR § 860-027-0025. The rules contemplate that a utility will provide all the details regarding a specific and actual transaction. In contrast, PacifiCorp has decided to pursue a strategy which may (or may not) result in the Company transferring its property to an unknown entity in the distant future. PacifiCorp has not (and cannot) provide copies of the transfer documents and contracts, the date the transfer will occur or even who will be receiving the property. The Commission cannot determine that this potential property transfer will be in the public interest without this required information.

IV. CONCLUSION

The Commission should recognize the significant obstacles for California to fully fund its share of the Klamath dam removal and that dam removal will probably not occur in 2020. The Commission should exercise its discretion and terminate the Klamath surcharges until it becomes clear that the necessary funds will be available and removal will occur on time. Oregon ratepayers should not be burdened with paying the surcharges if the Klamath dams will not be removed because of California's unwillingness to fully contribute its share of the costs.

In the alternative, the Commission should make a number of reasonable changes to PacifiCorp's surcharges to make them more consistent with SB 76 and reduce the surcharges to an average increase of 1.45% for all customer classes. The Commission should first adopt an equal percentage rate increase because there is no basis to charge industrial customers higher rates. Next, the Commission should reduce the initial surcharge to account for more accurate interest rates and schedule periodic surcharge reductions to ensure that PacifiCorp does not overcollect amounts and that total annual collections remain approximately the same. In addition, the Commission should retain the "subject to refund" language in the tariffs and track

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amounts paid by the large customers. Finally, the Commission should affirmatively conclude that the property transfer statute applies to any Klamath dam transfer, and that there is insufficient information in this proceeding to determine if the Klamath dams will be transferred or if such transfer would be in the public interest.

Dated this 9th day of August, 2010.

Respectfully submitted,

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ATTACHMENT A

Office of the Governor
Arnold Schwarzenegger

PRESS RELEASE

For Immediate Release:
Tuesday, June 29, 2010

Contact: Aaron McLear
Jeff Macedo
916-445-4571

Gov. Schwarzenegger Issues Statement Regarding the Water Supply Act of 2010

Governor Arnold Schwarzenegger today issued the following statement regarding the Water Supply Act of 2010:

"After reviewing the agenda for this year, I believe our focus should be on the budget -- solving the deficit, reforming out of control pension costs and fixing our broken budget system. It's critical that the water bond pass, as it will improve California's economic growth, environmental sustainability and water supply for future generations. For that reason, I will work with the legislature to postpone the bond to 2012 and avoid jeopardizing its passage."

The Water Supply Act is a crucial component of the comprehensive water package that passed in 2009. The bond will fund, with local cost-sharing, drought relief, water supply reliability, Delta sustainability, statewide water system operational improvements, conservation and watershed protection, groundwater protection and water recycling and water conservation programs.

Delaying the bond will not impact other parts of the 2009 water package, such as enhancing the Delta ecosystem, better monitoring groundwater basins, reducing statewide consumption and improving diversion patterns.

In May 2004, state leaders passed a bill to delay voting on the high-speed rail bond until November 2006, and later delayed the vote again until November 2008, when it eventually passed as Proposition 1A. The voters' approval of Proposition 1A in 2008 made a $9.95 billion bond-funded down payment on high-speed rail in California.

Governor Arnold Schwarzenegger
State Capitol Building
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