

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 219

In the Matter of)
)
)
PACIFICORP, dba PACIFIC POWER,)
)
Application to Implement the Provisions of)
Senate Bill 76)
_____)

**TESTIMONY ON SURCHARGE ISSUES OF THE
CITIZENS' UTILITY BOARD OF OREGON**

May 26, 2010



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OF OREGON**

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PACIFICORP, dba PACIFIC POWER,)	TESTIMONY ON SURCHARGE
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Application to Implement the Provisions of)	UTILITY BOARD
Senate Bill 76...)	OF OREGON
_____)	

1 My name is Gordon Feighner, and my qualifications are listed in CUB Exhibit
2 101.

3 **I. Introduction**

4 When Senate Bill 76 was first introduced into the Oregon Legislature, it did not
5 contain a requirement that the Oregon Public Utility Commission (OPUC) must examine
6 the Klamath Hydroelectric Settlement Agreement (KHSA) to ensure that dam removal
7 would result in "fair, just and reasonable rates." Signing the KHSA was a discretionary
8 action on behalf of PacifiCorp. PacifiCorp had the choice of pursuing dam relicensing
9 instead of agreeing to dam removal. CUB's concern in the legislature was that no party
10 was examining the KHSA to determine whether the choice made by PacifiCorp was
11 reasonable, prudent and in the interests of Oregon customers. Removal of the dams may
12 have benefits to the Klamath basin and coastal fishing economies, so the State of Oregon
13 as a whole may have an interest in dam removal. But, the interests of the State and the

1 interests of PacifiCorp’s ratepayers are not necessarily the same. CUB, therefore, pushed
2 strongly to amend the bill to include such a provision requiring review of the plan by the
3 OPUC so as to ensure that customers were adequately protected from unnecessary rate
4 increases.

5 In CUB’s view, the purpose of the amendments requiring the PUC review was
6 quite simple. PacifiCorp (or “the Company”) had done something very unusual in this
7 case – rather than relicense the Klamath Dams for several more decades of power
8 generation, the Company had negotiated an Agreement¹ with the states of Oregon and
9 California and the Federal Government which would allow the dams to be removed. The
10 Agreement limits the cost to PacifiCorp’s customers for dam removal, but places that cost
11 on the Company’s customers in just two of the six states its service territory. PacifiCorp
12 could have pursued relicensing, with the costs of that relicensing being allocated across
13 its service territory under the terms of the Revised Protocol, which includes a hydro
14 endowment that places most hydro costs onto customers of the old Pacific Power
15 system.² Instead, the Company chose to agree to allow the dams to be removed, with a
16 firm cost cap for its customers and an allocation requirement that ensures that Oregon
17 customers are the primary source of customer dollars for the removal. This settlement
18 also reduces the amount of available hydro generation in PacifiCorp’s portfolio and
19 requires the Company to obtain replacement generation capacity, the costs of which are
20 currently allocated under the terms of the Revised Protocol. This is why CUB wished to
21 have the plan thoroughly vetted to ensure that the rates established under the Agreement,

¹ Klamath Hydroelectric Settlement Agreement (KHSA) signed February 18, 2010.

² OPUC Order Number 05-021.

1 which includes the surcharge proposed for Oregon customers, are “fair, just and
2 reasonable”

3 In this testimony, CUB will first explain our view that for rates to be “fair, just
4 and reasonable,” those rates must be based on prudently-incurred costs. Secondly, CUB
5 will provide our analysis of the KHSA, which includes examining a significant volume of
6 highly confidential internal studies provided by PacifiCorp. Third, CUB will offer its
7 conclusion that, based on this analysis, PacifiCorp did indeed act prudently when it
8 agreed to pursue dam removal under the terms of the agreement rather than dam
9 relicensing, even though Oregon customers will foot a substantial portion of the bill.

10 Finally, CUB notes that the volume of highly confidential material in this docket
11 has been a challenge. This challenge has led us to focus on providing and supporting our
12 conclusions, but not overburdening the record with large volumes of highly confidential
13 material. The financial analysis section of this testimony and CUB Exhibit 102 are highly
14 confidential and will only be distributed to the parties that have signed the portion of
15 Special Protective Order No. 10-148 that pertains to highly confidential documents.

16 **II. General Analysis**

17 **A. Determining the Proper Standard for Evaluating This Rate Increase**

18 In its initial application in this docket, PacifiCorp argues that the “relatively
19 modest” rate changes put forth for Klamath-related matters are “fair, just and
20 reasonable.” PacifiCorp bases this claim on the fact that the increase it is seeking for
21 Klamath is small and is being added to rates that were found to be fair, just and

1 reasonable in January, 2010.³ By the Company’s reasoning, this “relatively modest”
2 increase of 1.6% on top of the recently-approved rates should also be considered to be
3 fair, just, and reasonable.

4 For rates to be fair, just and reasonable, they must reflect costs that are prudently
5 incurred and are necessary to provide adequate services to customers. Therefore, the size
6 of an increase, no matter how small, or how modest, is an improper test to use to
7 determine whether it is fair, just and reasonable. An increase in rates of 1.6% (or, for that
8 matter, 0.016%) cannot be determined to be fair, just and reasonable without a proper
9 analysis of its prudence.

10 CUB believes that the charges proposed in this docket fundamentally require a
11 prudence review. If PacifiCorp’s actions are and have been prudent, then the surcharge
12 and resulting rates should be viewed as fair, just and reasonable. Conversely, if the
13 Company’s actions are found to be imprudent, the surcharge and resulting rates would
14 inherently not be fair, just and reasonable.

15 **B. A Summary of CUB’s Analysis**

16 CUB finds the terms of the proposed settlement to be prudent. The portion of the
17 project’s costs incurred by PacifiCorp’s Oregon customers, while large, is acceptable
18 given the expected benefits of the project as compared to the quantity of financial risks
19 that will be assumed by customers. The agreement that the overall customer contribution
20 be limited to \$200 million (\$184 million to Oregon customers) provides adequate
21 assurance that ratepayers will not be responsible for cost overruns or other unanticipated
22 charges. The predicted costs of decommissioning compare favorably with the costs

³ Initial Application, p 6.

1 associated with relicensing the dams, and decommissioning poses significantly fewer
2 risks to PacifiCorp and project stakeholders.

3 PacifiCorp modeled the costs of the proposed settlement agreement in comparison
4 to several different potential cost levels for relicensing the dams. In analyzing these
5 scenarios, CUB has found that the settlement agreement is preferable to the combination
6 of costs and risks contained in each of the relicensing scenarios. This assessment applies
7 to PacifiCorp's entire system as well as to Oregon customers. As will be explained in
8 greater detail in the highly confidential financial analysis section found below, CUB finds
9 the proposed settlement agreement to be prudent, and therefore agrees with PacifiCorp's
10 assessment that the charges incurred by Oregon customers are fair, just and reasonable.

11 **III. Financial Analysis (HIGHLY CONFIDENTIAL)**

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REDACTED

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1 **IV. Conclusion**

2 CUB reiterates its support for the KHSA. Continuing to operate the Klamath
3 River dams until 2020 provides substantial benefits to customers, especially when
4 potential carbon costs are taken into consideration. The guarantee of limited financial
5 liability to Oregon customers makes the settlement preferable to the lack of certainty that
6 would accompany the FERC relicensing process. CUB's analysis of PacifiCorp's
7 financial work papers confirms the Company's assertion that the rate increase associated
8 with this settlement is prudent, and is therefore fair, just and reasonable.

9 Numerous parties put in hard work and made difficult compromises in order to
10 reach settlement, culminating in the signing of the KHSA and the passage of SB 76. CUB
11 looks forward to the completion of the entire KHSA process. CUB urges the Commission
12 to find that the rates established under the Agreement, including the surcharge proposed
13 for Oregon customers, are "fair, just and reasonable".

WITNESS QUALIFICATION STATEMENT

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EMPLOYER: Citizens' Utility Board of Oregon (CUB)

TITLE: Utility Analyst

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EDUCATION: Master of Environmental Management, 2005
Duke University, Durham, NC

Bachelor of Arts, Economics, 2002
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WORK EXPERIENCE: I have previously provided testimony in dockets including UE 196, UE 204, UE 207, UE 208, UE 210, UE 213, UE 214, UE 216, UM 1355 and UM 1431. Between 2004 and 2008, I worked for the US Environmental Protection Agency and the City of Portland Bureau of Environmental Services, conducting economic and environmental analyses on a number of projects. In November 2008 I joined the Citizens' Utility Board of Oregon as a Utility Analyst and began conducting research and analysis on behalf of CUB.

CUB EXHIBIT 102

REDACTED

**HIGHLY CONFIDENTIAL
PURSUANT TO ORDER NO. 10-148**

UE 219 – CERTIFICATE OF SERVICE

I hereby certify that, on this 26th day of May, 2010, I served the foregoing **TESTIMONY ON SURCHARGE ISSUES OF THE CITIZENS’ UTILITY BOARD OF OREGON** in docket UE 219 upon each party listed in the UE 219 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending an original and 5 copies by U.S. mail, postage prepaid, to the Commission’s Salem offices.

“W” denotes waiver of paper service

“C” denotes service of Confidential material authorized


“HC” denotes service of Highly Confidential material authorized

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