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March 21, 2005

Via Electronic and US Mail

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

Re: In the Matter of PACIFIC POWER & LIGHT Klamath Basin Irrigation Rates
Docket No. UE 171

Dear Filing Center:

Enclosed please find an original and two copies of the Answer in Opposition to Petition to Intervene of Pacific Coast Federation of Fishermen's Associations on behalf of the Klamath Off-Project Water Users.

Please return one file-stamped copy of the document in the self-addressed, stamped envelope provided. Thank you for your assistance.

Sincerely,

/s/ Ruth A. Miller
Ruth A. Miller

Enclosures

cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Answer in Opposition to Petition to Intervene of Pacific Coast Federation of Fishermen’s Associations on behalf of the Klamath Off-Project Water Users, upon the parties on the service list, shown below, by causing the same to sent by electronic mail to all parties who have an email address, as well as mailed, postage-prepaid, through the U.S. Mail.

Dated at Portland, Oregon, this 21st day of March, 2005.

/s/ Ruth A. Miller
Ruth A. Miller

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 171

In the Matter of)
)
PACIFIC POWER & LIGHT) KLAMATH OFF-PROJECT WATER
(dba PACIFICORP)) USERS' ANSWER IN OPPOSITION TO
) PETITION TO INTERVENE OF PACIFIC
) COAST FEDERATION OF
Klamath Basin Irrigation Rates.) FISHERMEN'S ASSOCIATIONS
_____)

Pursuant to OAR 860-013-0025, the Klamath Off-Project Water Users, Inc. (“KOPWU”) submits this Answer in Opposition to the Petition to Intervene of the Pacific Coast Federation of Fishermen’s Associations (“PCFFA”), filed March 9, 2005, in Oregon Public Utility Commission (“OPUC” or the “Commission”) Docket No. UE 171. KOPWU urges the Commission to deny PCFFA’s Petition to Intervene on the basis that PCFFA has not demonstrated a “sufficient interest” in this proceeding. The purpose of this proceeding is to determine whether PacifiCorp’s proposal to move Klamath Basin irrigation customers to standard tariffs is lawful and will result in just and reasonable rates. PCFFA’s asserted interests fall outside the scope of this proceeding, and the Commission lacks jurisdiction to address the issues that PCFFA intends to raise. As a result, the Commission should deny PCFFA’s Petition to Intervene. In the alternative, if the Commission grants PCFFA’s Petition, it should condition approval upon PCFFA raising only issues directly related to the legal issues in this proceeding and whether PacifiCorp’s rates are just and reasonable.

DISCUSSION

Intervention in OPUC proceedings is governed by OAR 860-012-0001(2), which states:

If the Commission or Administrative Law Judge (ALJ) finds the petitioner has sufficient interest in the proceeding and the petitioner's appearance and participation will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding, the Commission or ALJ shall grant the petition. The Commission or ALJ may impose appropriate conditions upon any intervenor's participation in the proceeding.

Administrative Law Judges ("ALJ") Grant and Kirkpatrick have described the primary issue before the Commission in this Docket as whether PacifiCorp's Klamath Basin irrigation customers should be provided electrical service in accordance with the On-Project and Off-Project Agreements or PacifiCorp's standard tariffs. Re PacifiCorp, OPUC Docket No. UE 170, Revised Joint Ruling and Prehearing Conference Noticed at 2 (Feb. 24, 2005). The ALJs also have stated that they "believe the issues to be raised in UE 171 to be primarily legal in nature, addressing the interpretation of existing contracts." Re PacifiCorp, OPUC Docket No. UE 171, Prehearing Conference Memorandum and Ruling at 3 (Mar. 3, 2005). The Commission's determination regarding the appropriate rates for Klamath irrigation customers also will involve consideration of whether PacifiCorp's proposals are "just and reasonable." ORS § 757.210(1).

PCFFA has not demonstrated a sufficient interest related to the issues in this proceeding to justify intervention. PCFFA describes itself as a "trade association representing the interests of commercial fishing families and small family commercial fishing business

operators and owners[.]” Re PacifiCorp, OPUC Docket No. UE 171, PCFFA Petition to Intervene at 2 (Mar. 9, 2005). In this proceeding, PCFFA intends to raise “environmental and economic issues” related to the current Klamath Basin irrigation tariff and the adverse impacts on water allocation. Id. at 7 Issues regarding the efficiency of water use in the Klamath Basin, recovery efforts for salmon, and the impacts of PacifiCorp’s electric rates on commercial fishing are unrelated to the legal determination regarding the On-Project and Off-Project agreements and whether PacifiCorp’s proposed rates are just and reasonable. Furthermore, the Commission’s jurisdiction is expressly limited to supervision and regulation of public utilities and telecommunications utilities and its mandate is to protect public utility customers from unjust and unreasonable rates. ORS § 756.040. The OPUC does not have jurisdiction over water allocation issues. PCFFA’s interests fall outside of the scope of this Docket and the Commission’s jurisdiction.

PCFFA also does not meet the OPUC standard for intervention because the issues it intends to raise will broaden the issues in this proceeding. Neither PacifiCorp’s testimony in UE 170 nor the ALJs’ rulings in establishing this Docket address water use or allocation or the consideration of issues in the Klamath River Basin that are unrelated to electric service. In addition, PCFFA states that it advocates “market-based” rates and tariffs for Klamath irrigation customers. Id. at 4. PCFFA’s support for market-based rates falls outside the scope of the issue that the ALJs determined would be decided in this Docket, which is whether Klamath irrigation customers should take service under: 1) the On-Project and Off-Project Agreements; or

2) PacifiCorp's standard tariffs. As a result, PCFFA's interest and the issues that PCFFA intends to raise will "unreasonably broaden" the limited issues to be decided in this Docket.

The Commission should deny PCFFA's Petition to Intervene. Nevertheless, if the Commission grants the Petition to Intervene, it should condition that approval on PCFFA raising only issues directly related to whether PacifiCorp's rates are just and reasonable. OAR § 860-012-0001(2). It is inappropriate for an entity to seek party status for the purpose of achieving higher electric rates for a class of customers in an attempt to achieve an environmental objective. As a matter of law and policy, the Commission should not allow proceedings such as this to be used in this manner.

CONCLUSION

PCFFA has not demonstrated a sufficient interest in this proceeding to justify intervention. PCFFA's identified interests are not directly related to the issues in this proceeding and granting PCFFA's intervention will unreasonably broaden the issues.

WHEREFORE, KOPWU requests that the Commission deny PCFFA's Petition to Intervene in UE 171.

Dated this 21st day of March, 2005.

Respectfully submitted,

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