

McDowell & Rackner PC



AMIE JAMIESON
Direct (503) 595-3927
amie@mcd-law.com

March 6, 2009

VIA ELECTRONIC FILING AND U.S. MAIL

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

Re: Docket No. UE 177(2)

Enclosed for filing in Docket UE 177 (2) are an original and one copy of Staff and PacifiCorp's Response to ICNU's Objections to the Stipulation. A copy of this filing has been served on all parties to this proceeding as indicated on the enclosed service list.

Very truly yours,

A handwritten signature in black ink, appearing to read "Amie Jamieson".

Amie Jamieson

Enclosure

cc: Service List

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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in Docket UE 177 on the following named person(s) on the date indicated below by email and first-class mail addressed to said person(s) at his or her last-known address(es) indicated below.

CUB – OPUC Dockets
Citizens' Utility Board Of Oregon
610 SW Broadway Ste 308
Portland OR, 7205
Dockets@oregoncub.org

Robert Jenks
Citizens' Utility Board
610 SW Broadway Ste 308
Portland OR, 7205
bob@oregoncub.org

G. Catriona McCracken
Citizens' Utility Board
610 SW Broadway Ste 308
Portland OR, 7205
Catriona@oregoncub.org

Gordon R. Feighner
Citizens' Utility Board
610 SW Broadway Ste 308
Portland OR, 7205
Gordon@oregoncub.org


Daniel W. Meek
Daniel W. Meek Attorney at Law
10949 SW 4th Ave
Portland OR 97219
dan@meek.net

Melinda J. Davison
Davison Van Cleve, PC
333 SW Taylor, Suite 400
Portland, OR 97204
mail@dvclaw.com

Linda K. Williams
Kafoury & McDougal
10266 SW Lancaster Rd.
Portland, OR 97219-6305
Linda@lindawilliams.net

Jason W. Jones
Department of Justice
Regulated & Utility Business Section
1162 Court Street NE
Salem, OR 97301-4096
jason.w.jones@state.or.us

DATED: March 6, 2009



Amie Jamieson

Of Attorneys for PacifiCorp

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **UE 177(2)**

4 In the Matter of:

5 PACIFICORP, dba PACIFIC POWER &
6 LIGHT COMPANY

7 Filing of tariffs establishing automatic
8 adjustment clauses under the terms of
9 SB 408.

**STAFF AND PACIFICORP'S
RESPONSE TO ICNU'S OBJECTIONS TO
THE STIPULATION**

10 Pursuant to ALJ Michael Grant's ruling on March 4, 2009, PacifiCorp d/b/a Pacific
11 Power ("PacifiCorp" or "the Company") and Commission Staff ("Staff") hereby submit this
12 Response to ICNU's Objections to the Stipulation to the Public Utility Commission of
13 Oregon ("Commission").

14 **I. BACKGROUND**

15 PacifiCorp filed its 2007 Tax Report on October 15, 2008, as required by Senate
16 Bill 408, codified in ORS 757.267, 757.268 and 757.210, and OAR 860-022-0041. Staff
17 convened a workshop on November 20, 2008, noticed to all parties in the docket, to
18 review issues raised by the 2007 Tax Report. Staff and the Company participated in a
19 settlement conference on December 8, 2008, that was also noticed to all parties in the
20 docket. ICNU did not participate in the workshop or the settlement conference and did not
21 review PacifiCorp's 2007 Tax Report. ICNU concedes in its testimony in opposition to the
22 stipulation that it did not actively participate in the review of PacifiCorp's 2007 Tax Report.
23 *See PacifiCorp Filing of Tariffs Establishing Automatic Adjustment Clauses Under the*
24 *Terms of SB 408, Docket UE 177(2), ICNU/100, Blumenthal/6, ll. 7-12 (Feb. 25, 2009).*
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1 *PacifiCorp Filing of Tariffs Establishing Automatic Adjustment Clauses Under the Terms of*
2 *SB 408, Docket UE 177, Ruling Granting Motion at 5 (Mar. 3, 2008); aff'd by Re*
3 *PacifiCorp Filing of Tariffs Establishing Automatic Adjustment Clauses Under the Terms of*
4 *SB 408, Docket UE 177, Order No. 08-176 (Mar. 20, 2008). The Commission previously*
5 *considered and unequivocally rejected the arguments put forth in ICNU's Objections and*
6 *Testimony. ICNU presents no evidence warranting a different outcome on these issues.*
7 *The Commission should therefore give no weight to ICNU's Objections and Testimony and*
8 *approve the Stipulation because it will result in just, fair, and reasonable rates.*

9 **A. Alleged Infirmaries of OAR 860-022-0041**

10 In the Commission's order on PacifiCorp's 2006 Tax Report, the Commission
11 rejected ICNU's arguments on the infirmaries of OAR 860-022-0041 as beyond the scope
12 of Docket UE 177, as the purpose of this proceeding is to determine whether the
13 Company's tax report complies with OAR 860-022-0041. *Re PacifiCorp Filing of Tariffs*
14 *Establishing Automatic Adjustment Clauses Under the Terms of SB 408, Docket UE 177,*
15 *Order No. 08-201 at 4 (Apr. 11, 2008). In that order, the Commission also found the*
16 *calculation of the surcharge to be compliant with both OAR 860-022-0041 and SB 408. Id.*
17 *at 4. ICNU has presented no evidence that warrants a different outcome here.*

18 **B. Safe Room Procedures**

19 The Commission also previously rejected ICNU's argument relating to the
20 Protective Order. In approving the Protective Order, the Commission evaluated the risk
21 and potential harm of disclosure against the benefit to intervenors of access to tax reports.
22 Protective Order at 2. The Commission found, given that the risk of disclosure of the tax
23 information is uncontrollable by the Commission and that disclosure could seriously harm
24 the producing utility, it had "no choice but to adopt a safe-room discovery mechanism to
25 govern the use of highly confidential information." *Id.* at 4, 5. The Commission has
26 already ruled that the protections for Highly Confidential material in the Protective Order

1 are necessary. ICNU fails to present any evidence that justifies reconsideration of this
2 ruling.

3 **III. CONCLUSION**

4 The Commission previously addressed the substance of ICNU's Objections and
5 Testimony and found them to be without merit. The Commission should again disregard
6 ICNU's arguments. No party other than ICNU filed objections to the Stipulation, and the
7 deadline for such objections has passed. See OAR 860-014-0085(5). Because no party
8 has presented a meritorious objection to the Stipulation and because the Stipulation will
9 result in just, fair, and reasonable rates, the Commission should approve the Stipulation.

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11 Dated: March 6, 2009

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Respectfully submitted,

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McDOWELL & RACKNER PC

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Katherine McDowell
Amie Jamieson
McDowell & Rackner PC
520 SW 6th Avenue, Suite 830
Portland, OR 97204

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Of Attorneys for PacifiCorp

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PUBLIC UTILITY COMMISSION STAFF
Jason Jones
Attorney for Staff
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

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23

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