PACIFIC POWER
A DIVISION OF PACIFICORP

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September 12, 2007

VIA ELECTRONIC FILING
& FIRST CLASS MAIL

Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97310-2551

Attention: Vikie Bailey-Goggins, Administrator
Regulatory and Technical Support

RE: UM 1147- In the matter of the Public Utility Commission of Oregon Staff request to open an investigation related to deferred accounting, **Initial Comments of Pacific Power – Phase III**

PacifiCorp (d.b.a. Pacific Power & Light Company) hereby submits for electronic filing an original and one (1) copy of its Initial Comments of Pacific Power – Phase III for Oregon Public Utility Commission Docket No. UM 1147.

Please direct informal questions with respect to this filing to Joelle Steward at 503-813-5542.

Very truly yours,

Andrea L. Kelly /jc

Andrea L. Kelly
Vice President, Regulation

Enclosures
cc: UM 1147 Service List (via email and first class mail)

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1147

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Request to Open an Investigation Related to Deferred Accounting.	INITIAL COMMENTS OF PACIFIC POWER PHASE III

PacifiCorp, dba Pacific Power ("Pacific Power" or "Company"), hereby submits its initial comments in Phase III of this docket. In Order No. 06-507, the Oregon Public Utility Commission ("Commission") directed Commission Staff ("Staff") and the parties to address what the rate of return on deferred accounts should be during amortization or how that rate of return should be established.[1] On August 15, 2007, Staff held a workshop with interested parties to develop an issues list for Phase III. Pacific Power appreciates the opportunity to participate in the discussion and provide comments on the issues list developed during the August 15 workshop.

COMMENTS

Question No. 1: What is the rate of return that should be applied to deferral accounts after amortization is granted?

As PacifiCorp has discussed in previous comments filed in this proceeding, it funds deferred accounts with debt and equity; it does not fund deferred accounts through discrete issuances of short-term debt instruments. The Commission acknowledged this fact and agreed that utilities should not cull out the funding of unamortized deferred

[1] Order No. 06-507, p. 6.

accounts from other utility investments.[2] The Commission, however, also determined that the risk associated with a deferred account changes after amortization is authorized and stated: "We conclude that utilities need only be kept whole on such investments, and we resolve that a rate of return other than a utility's AROR will do so."[3]

The funding for a deferred account is not fungible to any specific financing instrument, even after amortization is authorized, and therefore cannot be tied to any specific interest rate. This is the same for any other asset or liability that a utility acquires or incurs. If the Commission prefers to recognize a change in risk associated with a deferred account at the point amortization begins, the only appropriate rate of return other than a utility's Authorized Rate Of Return ("AROR"), is a utility's cost of long-term debt, which is not PacifiCorp's preferred approach.

Other rates, such as cost of short-term debt would not be appropriate. Pacific Power uses short-term debt primarily to meet its liquidity requirements and interim needs prior to more permanent financing. Therefore imposing the use of short-term debt on amortized amounts would present a mismatch of costs. Additionally, short-term debt rates frequently fluctuate, presenting the added challenge of ensuring the appropriate rate would actually be applied to amortized amounts. With this volatility, utilities would need to constantly update the interest rate applied to amortizations. Applying a short-term debt rate to amortized amounts would be procedurally complex and administratively burdensome. The Company's long-term cost of debt is based on the Company's actual financing costs and is a return component expressly authorized by the Commission in a

[2] Order No. 06-507, p. 6. See also Order No. 05-1070, p. 13-14.
[3] Order No. 06-507, p. 6.

rate case proceeding; therefore it undergoes a rigorous review by the Commission and interested parties.

In addition, customers are already getting the benefit of the lower short-term debt rate through the Allowance for Funds used during Construction ("AFUDC") calculation. FERC requires the Company to use the short-term debt rate as the first rate when determining AFUDC and only Current Work in Progress ("CWIP") balances in excess of short-term debt are charged at the equity and long-term debt rate. To the extent Oregon wanted to use short-term debt to finance the deferred amounts the Company would need to make a corresponding reduction in the amount of short-term debt in the AFUDC. This will result in a higher AFUDC rate and thus assets will enter service at a higher cost than currently is the case.

Lastly, the rate of return that the Commission authorizes for the amortization phase should apply symmetrically to regulatory assets as well as regulatory liabilities, subject to the materiality threshold discussed below in Question No. 6.

Question No. 2: How should the post-amortization rate of return be established?

If the Commission ultimately decides to establish a different rate of return to apply during the amortization period, PacifiCorp recommends that once amortization of a deferred account begins, the long-term cost of debt authorized by the Commission in the last general rate case ("GRC") be applied to the amortization balance. Using the cost of long-term debt would be synchronous to the Company's financing approach. This is the most straightforward and efficient method of establishing a rate of return for amortization balances and results in symmetry between the deferral and amortization periods. During the deferral period, the account would accrue interest using the AROR set in the last

GRC, and during the amortization period, the account would accrue interest using the long-term cost of debt set in the same proceeding.

Alternatively, the Commission could use the Company's actual long-term cost of debt as reported in the annual results of operations filing.[4] However, this would add administrative and procedural complexity since the actual cost of long-term debt will most likely require Commission acknowledgment prior to it being applied to any amortization balances. Moreover, since the Commission uses the authorized rate of return for the deferred accounts, it would be a consistent policy to use the authorized long-term cost of debt for amortization, rather than the current actual cost of long-term debt.

Question No. 3: Are there exceptions that should apply to Idaho Power?

PacifiCorp is not opposed to the authorized treatment of Idaho Power's current deferred accounts given their extenuating circumstances at this time.

Question No. 4: How should the rate of return be set for accounts that are currently accruing prospective deferrals?

PacifiCorp recommends that, to the extent possible, it separately track accounts for which amortization has been authorized from the accounts that continue to accrue deferrals. For instance, PacifiCorp's SB 1149 Implementation costs are tracked annually and are separate from the amortization of the prior year's SB 1149 Implementation costs. PacifiCorp would apply the AROR to the account during the deferral period and the long-term cost of debt during the amortization period.

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[4] The Company files its annual results of operations report on April 1.

For the accounts in which PacifiCorp would not easily be able to separately track amortization from the on-going deferrals, such as for Intervenor Funding Grants in which the on-going deferral amounts are relatively small, PacifiCorp recommends that it apply the long-term cost of debt to the single account, once amortization is authorized. This assumes that the account exceeds the threshold level discussed below.

Question No. 5: How should the rate of return be set for accounts under the provisions of the 1980 Act?

The Bonneville Power Administration ("BPA") balancing account has been in place since the early 1980s. The Oregon Department of Justice advised Commission Staff[5] a number of years ago that although the deferral of Regional Power Act ("RPA") benefits is described under ORS 757.259, the requirements of section 5(c) of the RPA makes authorization under state law unnecessary because federal law preempts state law.

Based on discussions with BPA[6] , PacifiCorp calculates monthly carrying charges on the BPA balancing account only when there is a credit balance. The Company believes that no interest should be charged on a credit balance because the Company had a choice to raise net rates by reducing the credit. By reducing the credit, PacifiCorp would avoid having customers owe the Company money.

The short tem rate used in the calculation of the carrying charges was authorized in a September 29, 1981 letter to PacifiCorp from William Kramer, Assistant Commissioner, Utility Program, referencing Docket No. UF 3735 concerning transactions with BPA. The letter under paragraph 5 states: "Interest should be charged or credited on monthly average balancing account amounts, using the average cost of

[5] OPUC Interoffice Correspondence, October 2, 2003, p. 1.
[6] OPUC Interoffice Correspondence, October 2, 2003, p.2.

obtaining funds under the Company's revolving credit terms for the month." The rate used by PacifiCorp is tied to the primary investment account used by the Company to invest excess cash. As of August 31, 2007 the rate used by PacifiCorp is from the Fidelity Treasury Fund # 695 rate. Prior to August 31, 2007 the Company used the rate from the Fidelity Money Market Fund # 59. The same rate is used for all three PacifiCorp states in which the Company receives benefits from BPA (Oregon, Washington, Idaho).

The treatment of the BPA balancing account set up under provisions of the 1980 Act is unique among the Company's deferred accounts. Given Pacific Power's unique situation with its BPA balancing account, altering the accounting treatment in one of its three states that receive benefits under the 1980 Act would be administratively cumbersome. Pacific Power recommends the continuation of the current treatment.

Question No. 6: Should there be a materiality threshold under which the post-amortization return in not reset?

PacifiCorp recommends that a materiality threshold be established to minimize the administrative efforts that will need to be undertaken in order to comply with the Commission's decision in this proceeding. Some account balances are simply too small for a change in the rate of return to be of any material consequence on the rate impacts to customers, and therefore do not warrant additional administrative effort.

To establish the threshold, PacifiCorp reviewed the Commission's current rules. The rules on Sales Promotion contain a threshold for determining the justness and reasonableness of advertising expenses for energy efficiency or conservation. These expenses are presumed just and reasonable if they are 0.125 percent or less of gross retail operating revenues in a general rate case proceeding.[7] This equates to approximately $1.1 million for PacifiCorp, based on its last general rate case, Docket No. UE 179. PacifiCorp recommends that the Commission use 0.125 percent of gross retail operating revenues from the most recent rate case as the materiality threshold for changing the rate of return for deferred accounts after amortization is authorized. Changing the interest rate for amortization of deferred accounts below this threshold will have an immaterial effect on customer rates.

Question No. 7: Should the newly established post-amortization rates of return apply to existing deferrals or should it be applied on a prospective basis?

If the Commission ultimately establishes a different rate of return during the amortization phase, the new policy should be applied on a prospective basis only. Retroactive application of legislation and regulations is strongly disfavored and should be avoided. Generally, legislation is to be applied prospectively unless it appears the legislature intended to enact retroactive legislation.[8] Statutes or regulations that do not expressly state intent to be applied retroactively are not applied retroactively, especially where such an application would impair existing rights, create new obligations or impose additional duties with respect to past transactions.[9]

ORS 757.259 governs deferred accounting for utilities. Nothing in this provision or any other provision of ORS 757.259 suggests legislative intent for this particular statute or any provision thereof to be applied retroactively. ORS 757.259(4)(c) allows the Commission to authorize deferrals, plus interest, starting with the date of the application.

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[7] OAR 860-026-0022(3)(a).

[8] *Oregon Dept. of Human Services v. Willingham*, 136 P.3d 66, 68 (Or.App., 2006).

[9] *Derenco v. Benj. Franklin Fed. Sav. And* Loan, 577 P.2d 477, 483 (Or. 1978). *Guerrero v. Adult and Family Services Division*, 676 P.2d 928, 929 (Or.App., 1984).

This suggests that the Commission must set the authorized deferral amount and the interest rate amount at the time of approval of the deferral. Once set, the interest rate should not be changed, especially mid-stream, absent the finding of a new AROR approved in a General Rate case. Utilities make plans for the future based on Commission decisions, which create a reasonable expectation of regulatory treatment of those plans.

CONCLUSION

Pacific Power appreciates the opportunity to provide these comments and looks forward to continued participation in this proceeding.

DATED this 12th day of September, 2007.

Respectfully submitted,

Andrea L. Kelly /pm

Andrea L. Kelly
Vice President, Regulation
Pacific Power

CERTIFICATE OF SERVICE

I certify that I have cause to be served the foregoing **INITIAL COMMENTS OF PACIFIC POWER – PHASE III** in OPUC Docket No. UM 1147 by electronic mail and first class mail to the parties on the attached service list.

DATED this 12th day of September, 2007.

Debbie DePetris
Supervisor, Regulatory Admin.

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