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August 6, 2008

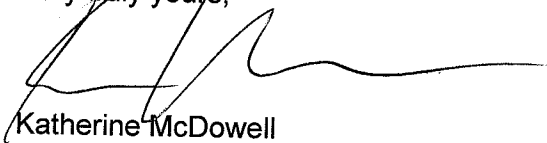
VIA ELECTRONIC FILING AND U.S. MAIL

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

Re: Docket No. UE 177

Enclosed for filing in Docket UE 177 are an original and one copy of PacifiCorp's Motion for Leave to File a Reply and Reply to Staff's Response to PacifiCorp's Motion for Clarification Re: Application of UM 1147 Orders. A copy of this filing has been served on all parties to this proceeding as indicated on the enclosed service list.

Very truly yours,



Katherine McDowell

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.

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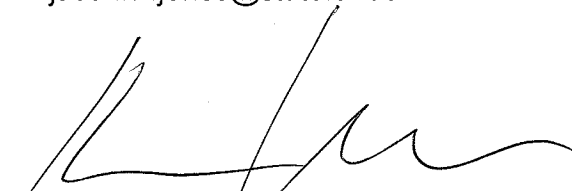
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DATED: August 6, 2008



Katherine McDowell

Of Attorneys for PacifiCorp

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

3 **UE 177**

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.

**MOTION FOR LEAVE TO FILE A REPLY
AND
REPLY TO STAFF'S RESPONSE TO
PACIFICORP'S MOTION FOR
CLARIFICATION RE. APPLICATION OF
UM 1147 ORDERS**

10
11 **I. INTRODUCTION**

12 PacifiCorp d/b/a Pacific Power ("Pacific Power" or "the Company") submits this
13 Motion for Leave to File a Reply and Reply to Staff's Response to PacifiCorp's Motion for
14 Clarification Re. Application of UM 1147 Orders to the Public Utility Commission of Oregon
15 ("Commission"). The Commission's rules do not explicitly permit or deny the filing of a
16 reply to a response to a motion. It is therefore in the Commission's discretion to allow
17 such a reply. In this case, Pacific Power's reply is a limited response to an argument
18 made in Staff's Response to Pacific Power's Motion for Clarification ("Staff's Response").
19 Pacific Power's reply will provide the Commission with information that will allow it to make
20 a speedy and just determination of the issues presented in the Company's Motion for
21 Clarification Re. Application of UM 1147 Orders ("Motion for Clarification").¹ Pacific Power
22 therefore respectfully requests that the Commission accept this Reply to Staff's Response.

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25 ¹ See OAR 860-011-0000(6).
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1 **II. BACKGROUND**

2 On July 16, 2008, PacifiCorp filed a Motion for Clarification. The Motion for
3 Clarification requested that with respect to Order No. 08-201 in UE 177 ("UE 177 Order"),
4 the Commission clarify that Order No. 06-507 ("UM 1147 Order I") and Order No. 08-263
5 in UM 1147 ("UM 1147 Order II") (collectively "the UM 1147 Orders") change the interest
6 rate only on amounts that the Commission ordered to be amortized, not the entire
7 surcharge amount. The Motion for Clarification requested clarification that the funds held
8 in the Company's SB 408 balancing account continue to accrue interest at the Company's
9 authorized rate of return ("AROR").

10 On July 21, 2008, the Industrial Customers of Northwest Utilities ("ICNU") filed a
11 response to the Motion for Clarification, arguing that the funds in the SB 408 balancing
12 account should be subject to the interest rate established in the UM 1147 Order II for
13 amortized amounts ("Modified Blended Treasury Rate"). ICNU argued that the lower
14 interest rate established in that order was more appropriate than the Company's AROR
15 because there is little risk of non-recovery of the amounts in the SB 408 balancing
16 account. Pacific Power filed a letter on July 29, 2008, stating that would not request leave
17 from the Commission to file a reply to ICNU's response, but that it continued to request
18 that the Commission clarify its orders as requested in the Motion for Clarification.

19 Staff filed a response to the Motion for Clarification on August 1, 2008. Staff
20 argued that by adopting the \$34.5 million surcharge in Order No. 08-201, the Commission
21 "effectively approved the entire amount for amortization."² Staff stated that the period of
22 amortization is irrelevant because the Commission is required by law to include the entire
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24 ² *Re Oregon Public Utility Commission Staff Requesting the Commission Direct PacifiCorp,*
25 *dba Pacific Power, to File Tariffs Establishing Automatic Adjustment Clauses Under the Terms of*
26 *SB 408, Docket UE 177, Staff's Response to PacifiCorp's Motion for Clarification Re. Application of*
UM 1147 Orders at 2 (Aug. 1, 2008).

1 amount of the surcharge in rates.³ Staff also stated that applying the Modified Blended
2 Treasury Rate would avoid utilities “gaming” the system by proposing a multi-year
3 amortization period for surcharges in order to collect interest at its AROR.

4 III. DISCUSSION

5 In UM 1147 Order II, the Commission drew a clear distinction between amounts
6 approved for amortization, which are subject to the Modified Blended Treasury Rate, and
7 amounts that were not, which are subject to the utility’s AROR.⁴ The order does not
8 provide for a Commission determination of whether the amounts were “effectively”
9 approved for amortization. The Commission has established a bright line test for
10 application of the Modified Blended Treasury Rate—this rate only applies “during the
11 discrete period of amortization.”⁵ Unamortized amounts accrue interest at the utility’s
12 AROR.⁶

13 The ordering paragraph in the UE 177 Order states that “[a] surcharge in the
14 amount not to exceed . . . \$27,000,000 shall be amortized Any remaining surcharge
15 shall be deferred to PacifiCorp’s SB 408 balancing account.”⁷ The only reasonable
16 reading of this statement is that only \$27,000,000 of the surcharge was authorized for
17 amortization. The remaining portion of the surcharge was authorized for deferral, not
18 amortization.

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21 ³ *Id.*

22 ⁴ *Re Public Utility Commission of Oregon Staff Request to Open an Investigation Related to
Deferred Accounting, Docket UM 1147, Order No. 08-263 at 1, 15 (May 22, 2008).*

23 ⁵ *Id.*

24 ⁶ *Id.*

25 ⁷ *Re Oregon Public Utility Commission Staff Requesting the Commission Direct PacifiCorp,
dba Pacific Power, to File Tariffs Establishing Automatic Adjustment Clauses Under the Terms of
SB 408, Docket UE 177, Order No. 08-201 at 7 (Apr. 11, 2008).*

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1 In another part of the UE 177 Order, the Commission states that it “adopts Pacific
2 Power’s proposed amortization schedule, under which the utility will collect the surcharge
3 over a two-year period.”⁸ This statement can be read as implying that the entire surcharge
4 has been amortized. However, to the extent there is a conflict between that statement and
5 the ordering paragraph, the ordering paragraph is the effective statement. As a matter of
6 law, then, Pacific Power cannot amortize the portion of the surcharge the Commission
7 ordered to be deferred to the SB 408 balancing account without an additional order
8 authorizing such an amortization.

9 The Commission should not accept Staff’s interpretation that amounts that have
10 been “effectively” amortized should be subject to the Modified Blended Treasury Rate.
11 Such an interpretation would require a utility to determine whether amounts for which the
12 Commission has ordered an accounting treatment other than amortization should be
13 subject to the Modified Blended Treasury Rate because they have been “effectively”
14 amortized. This would cause unnecessary confusion for all parties and would defeat the
15 purpose of the bright line test set out in UM 1147 Order II.

16 In addition, Pacific Power objects to any implication that its proposal to defer part
17 of its SB 408 surcharge for later amortization was an attempt to “game” the system.
18 Pacific Power explained in its testimony and briefs in this docket that its amortization
19 proposal was intended to reduce the impact of the SB 408 related rate increase on its
20 customers.⁹ Pacific Power’s intent was not to ensure that a portion of the surcharge would
21 receive a higher interest rate than the amortized portion and there is no evidence in the
22 record to that effect.

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24 ⁸ *Id.* at 1.

25 ⁹ See *Re Oregon Public Utility Commission Staff Requesting the Commission Direct*
PacifiCorp, dba Pacific Power, to File Tariffs Establishing Automatic Adjustment Clauses Under the
Terms of SB 408, Docket UE 177, PacifiCorp’s Post-Hearing Brief at 11 (Mar. 14, 2008).


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IV. CONCLUSION

Pacific Power respectfully requests that the Commission accept this Reply to Staff's Response and clarify the UE 177 Order as described in the Company's Motion for Clarification.

DATED: August 6, 2008.



Katherine McDowell
Attorney for Pacific Power