

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

Docket No. UE 171

In the Matter of the Request of)	PETITION TO INTERVENE BY
)	THE PACIFIC COAST
PACIFIC POWER & LIGHT)	FEDERATION OF FISHERMEN'S
(dba PacifiCorp))	ASSOCIATIONS, INC. (PCFFA)
)	
Request for a General Rate Increase in the)	
Company's Oregon Annual Revenues)	
[Supplemental Docket to UE-170])	

**PETITION TO INTERVENE OF THE PACIFIC COAST FEDERATION OF
FISHERMEN'S ASSOCIATIONS (PCFFA)**

Pursuant to ORS § 756.525 and OAR § 860-013-0021, the Pacific Coast Federation of Fishermen's Associations, Inc. ("PCFFA") hereby submits this Petition to Intervene in the above-captioned proceeding and seeks party status as provided in OAR § 860-001-0035(5). The name, mailing address and contact information of PCFFA as a party of record in this proceeding is:

Pacific Coast Federation of Fishermen's Associations (PCFFA)
Northwest Regional Office
Attn: Glen H. Spain, NW Regional Director
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PCFFA staff member Glen H. Spain, as Northwest Regional Director, will represent the interests of PCFFA in this proceeding. We may also appoint counsel at a later date. All

documents related to this proceeding should be served to Glen H. Spain at the address above.

On 24 February, the Administration Law Judge established this Docket UE-171 as a separate forum to determine the specific issues previously raised in UE-170 regarding the reasonableness of the power subsidy to the Klamath Project and certain off-Project commercial irrigators. These are precisely the issues PCFFA wishes to address. The Judge also established 14 March 2005 as the deadline for filing Petitions for Intervention, and this Petition is within that deadline.

Thus our intervention will not delay the proceeding in any way and will not raise new issues; PCFFA can uniquely provide information on environmental and economic impacts of the power subsidy not available from other parties; and the public interest will be served in allowing the intervention of an affected organization representing economic stakeholders not yet present in this proceeding. We are also not seeking issue fund grant compensation for our participation, so there will be no additional burden on public resources in allowing this intervention.

DESCRIPTION OF PETITIONER'S ORGANIZATION

PCFFA is a non-profit, coast-wide trade association representing the interests of commercial fishing families and small family commercial fishing business operators and owners up and down the west coast, in particular salmon fishermen. PCFFA has offices in Eugene, OR and in San Francisco, CA.

PCFFA is by far the largest trade association for commercial fishermen on the west coast, and is organized as a federation of many different port associations, vessel owner

associations and fishermen's marketing associations representing a broad spectrum of fishing interests, including many coastal commercial salmon fishermen operating in Northern California, Oregon and Washington. PCFFA member organizations within Oregon as far north as Astoria are within the PacifiCorp service area, and their members would be subject to this rate case. Many PCFFA-affiliated salmon fishermen in Northern California around Crescent City, CA and Eureka, CA are also affiliated with PCFFA member organizations and reside or do business within the PacifiCorp service area. Together the total membership of PCFFA-affiliated groups is about 2,000 commercial fishing businesses in Washington, Oregon and California, each representing tens to hundreds of thousands of dollars in business investment.

NATURE AND EXTENT OF PETITIONER'S INTEREST

PCFFA's primary interest in this case has to do with unfair and unreasonably discriminatory power rate subsidies to federal and non-federal commercial irrigators in the Upper Klamath Basin, and the adverse impacts of those subsidized power rates on lower Klamath River Basin water resources which in turns adversely affects salmon fisheries, economic interests dependent on those salmon fisheries and the environment. PCFFA has been an active and consistent participant in salmon restoration and water allocation issues regarding the Klamath River Basin for more than 20 years, with considerable staff time devoted to those issues.

We contend that the current power rate subsidy is an arbitrary, unjust, and unreasonably discriminatory exaction from other power users, including PCFFA member organizations and their constituency. Current power rates to Klamath Basin irrigators are fixed at 1917

power rates far below current market rates, and in fact far below the rates paid for irrigation by any other Oregon farming operations, which are then forced to subsidize their economic competitors in the same agricultural markets. Below market irrigation pumping subsidies also encourage wasteful and inefficient water use in the upper Klamath Basin, which means less water left in a water-starved Klamath River to support economically important salmon fisheries, undercutting state and federal recovery efforts for the Klamath River coho salmon (which are listed as “threatened with extinction” under the federal Endangered Species Act (ESA) as well as under the California ESA) and for economically valuable fall and spring chinook salmon runs that are now in decline, principally due to lack of water in the Klamath River.

We do not and never have opposed the reasonable use of irrigation water for agriculture in the Upper Klamath Basin. However, we do advocate rational, market-based, non-discriminatory power rates that encourage the efficient use and conservation of water for irrigation and other purposes that does less harm to in-river flows and valuable downriver commercial salmon fisheries in the Klamath Basin. That is best achieved by setting agricultural power rates in the Klamath Basin at the same market rate as all other agricultural users.

Irrigation power subsidies have real-world impacts on the availability of water in the river. Below market subsidies eliminate economic “signals” to conserve the resource. When discriminatory, below market and water-wasteful irrigation power subsidies in the upper Klamath Basin cause inefficient use of the basin’s extremely limited water resources, this deprives the lower Klamath River of much needed water to support commercial salmon fisheries, putting PCFFA member organizations at economic risk,

reducing fishing opportunities for their members, and putting commercial salmon fishing families throughout Oregon and Northern California, as well as allied salmon fishing-based businesses, out of work.

Furthermore, adverse impacts on our industry from water-wasteful, unfair and discriminatory irrigation subsidies in the Klamath Basin are paid for by all other PacifiCorp ratepayers, including PCFFA members residing or doing business within the PacifiCorp service area. In other words, commercial fishermen who are PacifiCorp customers are forced through the current discriminatory Klamath Basin agricultural rate tariffs to subsidize the water depletion of the Klamath River and the destruction of their own livelihoods.

We believe that the present PacifiCorp far below market rate irrigation tariffs in the Klamath River Basin support uneconomical and inefficient use of water from Klamath Basin lakes, rivers, streams, and groundwater for irrigation and other purposes. These tariffs directly impact the total volume of water left in the Klamath River to support commercially valuable salmon fisheries. Only so much water is available each year from the arid basin's limited rainfall, and the water resources of the basin are clearly over-appropriated. When water is inefficiently used in the upper Klamath Basin it must come out of the portion left in the river to support fisheries. *It makes no sense, in an already over-appropriated basin fraught with water conflicts, to maintain irrigation rates that are many times below market costs and thus discourage conservation and efficient water use.*

Problems with the dewatering of the lower Klamath River have been serious and getting worse. Over the past 40 years, vastly increased upper basin irrigation demand (in part fueled by the current huge irrigation subsidy) has artificially lowered water flows in the

lower Klamath River to near record low levels that have led to major fish kills in roughly 7 out of 10 years, culminating in September 2002 in a fish kill of at least 60,000 dead adult spawners in what has been described as the worst adult fish kill in U.S. history.

These preventable losses have already cost coastal fishing-dependent communities and businesses in Oregon and Northern California many millions of dollars in lost economic opportunities, and threaten to close much of the coastal salmon fishery in 2006 as far north as the Columbia River. A similar juvenile fish kill of at least 200,000 in the spring of 2002 is likely to trigger major ocean salmon fishery closures this year, again well up the Oregon coastline. Total economic damages to coastal fishing-dependent communities in Oregon and Northern California (and to PCFFA member organizations and the livelihoods of their members) from these losses likely totals well over \$100 million with no end in sight.

These economic losses could have been mitigated or prevented had there been better conservation of water in the upper Klamath Basin that allows more water to remain in the river rather than being diverted for irrigation. The current Klamath Basin irrigation subsidy, however, removes a major economic incentive to conserve that limited water supply.

Furthermore, uneconomical irrigation operations adversely affect natural physical river processes, hydrology, water quality, and the health of many aquatic species and their habitat. Vastly below market Klamath Basin irrigation tariffs also promote inefficient energy consumption, thereby counteracting necessary energy conservation efforts, and represent an inequitable distribution of the costs of electrical service.

ISSUES PETITIONER INTENDS TO RAISE IN THE PROCEEDING

We intend primarily to raise environmental and economic issues related to the current far below market, discriminatory Klamath Basin irrigation tariff and the adverse impacts of this massive subsidy on water allocation, which in turn damages lower river fishing-dependent communities. Some of these issues are already before the Commission through the filings of other Intervenors. However, the unique economic interests and expertise of PCFFA's commercial fishermen members, and Klamath Basin salmon-dependent coastal communities generally, are directly affected by the outcome of this proceeding, but are not represented by any other party.

The PUC must also consider the environmental impacts of its decisions as well as the full range of economic impacts, and should have a full range of parties and information before it on which to make those assessments.

PCFFA seeks to obtain careful Commission consideration of both the environmental and economic costs of the current below-market Klamath irrigation power subsidy to lower river communities dependent upon the Klamath River as a functioning river system capable of supporting economically valuable salmon fisheries and salmon-based economies.

There are many other social, environmental and economic values involved in rate case decisions besides irrigation needs. The Commission should also have information before it, that PCFFA is uniquely positioned to provide, on the environmental and economic costs of the current discriminatory Klamath irrigation tariff to the non-irrigation values of the Klamath River Basin. This information will show the need for Klamath Basin irrigation tariffs that are just and reasonable, non-discriminatory, market-based and which promote

efficient use of water in the Klamath Basin so that fish and wildlife, water quality, river ecosystems and fishing-dependent communities are better protected through increased flows. Unlike any other Intervener or party, as the west coast's largest trade association of commercial fishermen, PCFFA is uniquely qualified to present this kind of information.

In the filing in the underlying case (Docket UE-170), PacifiCorp's policy witness Mr. Furman states that the company has developed tariffs and a "Rate Mitigation Adjustment" it is proposing to bring "Klamath Basin irrigators... back to standard tariff in 2006." PPL/100, Furman/3. The proposal is set forth in greater detail in the pre-filed testimony of Mr. William R. Griffith, PPL/1200, Griffith 9-11. Because a return to standard irrigation tariffs in the Klamath River Basin in 2006 can be reasonably expected to reduce uneconomic and inefficient use of Klamath River Basin water resources for irrigation and other purposes, will likely also improve energy efficiency and conservation in Oregon, will more equitably distribute electrical service costs among PacifiCorp customers, and will help restore water flows sufficient to protect valuable downriver salmon fisheries and ESA-listed species, PCFFA will primarily address these issues in this proceeding.

SPECIAL KNOWLEDGE AND EXPERTISE OF PETITIONER

As the west coast's largest trade association of commercial fishermen and fishing dependent families, PCFFA has substantial expertise regarding Klamath tariff matters to be considered in this proceeding, including the biological need for improved lower Klamath River instream flows, the economic value of a healthy Klamath River environment, ecological and hydrological processes affected, and the economic value of Klamath River-

origin fisheries to coastal communities throughout Oregon and Northern California. The participation of PCFFA will facilitate development of a more complete record regarding the Klamath irrigation tariff, allowing more informed decision-making consistent with the protection of the environment, other affected non-irrigation economies and the public interest.

CONCLUSION

PCFFA's participation as a party-Intervenor in this proceeding will assist the Commission in resolving some of the key issues related to the Klamath Basin irrigation tariff, will be limited in scope to that issue, and will not unreasonably broaden the issues, unduly burden the record, or unreasonably delay the proceeding. As an affected economic interest, PCFFA and its member associations have a direct and substantial interest in this proceeding insofar as discriminatory power subsidies to be considered in this case directly and indirectly impact their member's livelihoods from harvesting salmon in the Klamath Basin, and in coastal fishing-dependent communities throughout coastal Oregon.

Many of Oregon's fishing-dependent communities, and the fisheries and environmental values of the Klamath River Basin that PCFFA seeks to protect in the public interest, will be dramatically impacted by the proposed tariffs for Klamath irrigation customers. No other party can adequately represent PCFFA's members' unique economic interests, and PCFFA members' livelihoods will be affected by any Commission determination made in this proceeding.

WHEREFORE, we respectfully request leave to intervene and request all the rights of a party in this proceeding.

PCFFA MOTION TO INTERVENE – DOCKET UE-171

March 9, 2005

Respectfully submitted,

PACIFIC COAST FEDERATION OF
FISHERMEN'S ASSOCIATIONS, INC.

By _____

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I hereby certify that I have delivered a true and accurate copy of this Petition to the Service List attached, by U.S. mail, first class postage fully paid, plus the original and five (5) copies on the Oregon PUC Office, and electronic filing and notice to the Service List on March 9, 2005.

Date: March 9, 2005

/s/ _____
Glen H. Spain

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