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October 15, 2007

VIA ELECTRONIC FILING

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

Re: Docket No. UM 1229

Enclosed for filing in the above-referenced matter is PacifiCorp's Second Amended Application for Deferred Accounting. A copy of this filing has been served on all parties to this proceeding as indicated on the attached certificate of service.

Very truly yours,

A handwritten signature in black ink, appearing to be "SJA", written over a horizontal line.

Sarah J. Adams

Enclosures
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 UM 1229 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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DATED: October 15, 2007.



Sarah J. Adams

Of Attorneys for PacifiCorp

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1229

In the Matter of the Application of PACIFIC
POWER & LIGHT (d/b/a PacifiCorp) for a
Deferred Accounting Order Regarding
Certain Tax Expenses

**SECOND AMENDED APPLICATION FOR
DEFERRED ACCOUNTING**

7

I. INTRODUCTION

8 In response to the Oregon Public Utility Commission’s rulemaking orders related to
9 Senate Bill 408 (“SB 408”), PacifiCorp amends its request for deferred accounting in this
10 docket. See AR 517, Order 07-401 (amending rules); AR 499, Order 06-532 (promulgating
11 rules) (collectively, the “Rulemaking Orders”). Specifically, the Rulemaking Orders clarify
12 that PacifiCorp may fully recover the difference between “taxes authorized to be collected in
13 rates” and “taxes paid and properly attributed to the regulated operations of the utility”
14 caused by the UE 170 SB 408-related disallowance, adjusted for the iterative effect and
15 interest, through PacifiCorp’s first operative automatic adjustment clause (“AAC”) under
16 SB 408. See Order 07-401, App. A at 1, 5 (excluding iterative effect of SB 408 adjustment
17 in rate case); Order 06-532, App. A at 7 (accruing interest on over- or under-collection as of
18 July 1 of tax year).

19 However, PacifiCorp may not have an opportunity to recover the revenue shortfall
20 through its SB 408 AAC if the Internal Revenue Service (“IRS”) either does not rule on
21 PacifiCorp’s request for a Private Letter Ruling (“PLR”) or rules that the SB 408 AAC
22 constitutes a violation of the normalization conditions of the Internal Revenue Code (“IRC”).
23 *Id.* (staying AAC pending IRS response to utility’s request for PLR). As a result, PacifiCorp
24 has narrowed its UM 1229 Application to respond to this remaining risk. PacifiCorp now
25 requests the opportunity to defer for later recovery in rates the difference between “taxes
26 paid and properly attributed” and “taxes authorized to be collected in rates” for calendar year

1 2006 to ensure recovery of this amount in the event the IRS either does not rule or issues a
2 negative ruling on PacifiCorp's pending request for a PLR. Either of these results could
3 prevent PacifiCorp from recovering the UE 170-related revenue shortfall through the SB 408
4 AAC for calendar year 2006.

5 PacifiCorp requests that the Commission hold a hearing on this Amended
6 Application under ORS 757.759(2).

7 II. BACKGROUND

8 The UE 170 Rate Order:

- 9
- 10 • On September 28, 2005, the Commission issued Order 05-1050, the final
11 rate order in Docket UE 170. The order included a \$26.6 million revenue
12 requirement reduction based on the provisions of SB 408. Order 05-1050
13 at 19.

12 The UE 170 Reconsideration Order:

- 13
- 14 • On October 28, 2005, PacifiCorp filed a request for reconsideration and
15 rehearing of the Rate Order. On that same date, PacifiCorp filed an
16 application seeking authorization to defer the revenue shortfall related to the
17 disputed tax expense adjustment.
 - 18 • On July 10, 2006, the Commission issued the UE 170 Reconsideration Order,
19 which reduced the tax adjustment by \$6.1 million on a grossed-up basis, but
20 retained a tax disallowance of \$20.5 million on a grossed-up basis. Order 06-
21 379 at 14. The Order granted PacifiCorp's request for deferred accounting
22 for the revenue requirement effect of the reduction. *Id.* at 15. The Order did
23 not address other aspects of the deferred accounting application, instead
24 indicating that "PacifiCorp may ask for further proceedings in UM 1229
25 following the issuance of the Order." *Id.* at 15, n. 3. On August 31, 2006,
26 PacifiCorp filed Advice 06-016 to amortize the amounts expressly authorized
for deferral in the Reconsideration Order.
 - In the Reconsideration Order, the Commission explained that the tax
adjustment responded to the unique application of SB 408 to PacifiCorp's
general rate case. *Id.* at 6. In the context of this unique circumstance, the
Commission determined that it must do its best to adjust PacifiCorp's 2005
rates to reflect actual taxes paid.
 - For the period after 2005, however, the Commission recognized that the
disallowance would cause a mismatch between the tax expense reflected in
rates (which had been lowered to take into account the PHI interest
adjustment but did not reflect SB 408 add-backs or credits) and taxes actually
paid. *See id.* at 13.

- 1 • The Commission concluded that PacifiCorp would not be harmed by this
2 mismatch because PacifiCorp could recover the difference through its SB 408
3 AAC. *Id.* at 16. The Commission also left UM 1229 open, permitting
4 PacifiCorp to seek recovery of any additional revenue shortfall through
5 deferred accounting. *Id.* at 15, n. 3.
- 6 • In response to the Reconsideration Order, the Company amended this
7 deferred accounting application on September 8, 2006 to cover calendar year
8 2006 only. On November 17, 2006, the Commission abated the amended
9 application until after PacifiCorp filed its 2006 tax report on October 15, 2007.
10 See UM 1229 Ruling (November 17, 2006).

11 The Rulemaking Orders:

- 12 • On September 14, 2006, the Commission promulgated administrative rules
13 implementing SB 408. See Order No. 06-532. Among other things, the rules
14 provide for recovery of interest as of July 1 of the tax year on any over- or
15 under-collection of taxes paid and properly attributed to the regulated
16 operations of the utility, *id.* at 7, and suspension of a utility's AAC while a
17 utility's request for a PLR is pending. *Id.* However, the rules inadvertently
18 failed to include a provision to remove the iterative effect of SB 408-related
19 tax adjustments. See Order No. 07-401 at 3.
- 20 • On September 18, 2007, the Commission promulgated housekeeping
21 amendments to the rules adopted in Order No. 06-532. Among other things,
22 these amendments provided for exclusion of the iterative effect that occurs
23 when SB 408-related rate adjustments are taxed as increased or decreased
24 revenue in subsequent years. *Id.* at 2-3 (excluding the iterative effect caused
25 by "any rate adjustment made pursuant to SB 408, whether accomplished
26 through the automatic adjustment clause set forth in ORS 757.268, or
through an adjustment to base rates pursuant to ORS 757.267").

Consequently, so long as the IRS responds to PacifiCorp's PLR request by
concluding that the AAC does not violate the normalization conditions of the IRC, SB 408
and the implementing rules permit a full true-up for PacifiCorp's calendar year 2006 tax
expense shortfall caused by the Rate Case and Reconsideration Orders. However, if
PacifiCorp is unable to recover through the SB 408 AAC because the IRS does not rule or
rules negatively, deferred accounting will be necessary to ensure full recovery of the
shortfall, as contemplated by the Commission in the UE 170 Rate and Reconsideration
Orders. See Order 06-379 at 15-16.

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III. NOTICE

Communications regarding this Second Amended Application should be addressed to the following:

PacifiCorp Oregon Dockets	Katherine A. McDowell
PacifiCorp	McDowell & Rackner PC
825 NE Multnomah, Suite 2000	520 SW Sixth Ave., Suite 830
Portland, OR 97232	Portland, OR 97204
Telephone: (503) 813-5542	Telephone: (503) 595-3924
Facsimile: (503) 813-6060	Facsimile: (503) 595-3928
E-mail: oregondockets@pacificorp.com	E-mail: Katherine@mcd-law.com

In addition, PacifiCorp respectfully requests that all data requests regarding this matter be addressed to:

By e-mail (preferred):	datarequest@pacificorp.com
By fax:	(503) 813-6060
By regular mail:	Data Request Response Center
	PacifiCorp
	825 NE Multnomah, Suite 800
	Portland, OR 97232

IV. DEFERRED ACCOUNTING RULE REQUIREMENTS

The following information is provided pursuant to the requirements set forth in OAR 860-027-0300(3).

A. Description of Utility Revenue or Expense.

Consistent with the application filed in this docket on October 28, 2005, and later amended on September 8, 2006, PacifiCorp continues to request that the Commission allow the company to defer the revenue shortfall related to its tax expense in rates from January 1, 2006 through December 31, 2006 caused by the disallowance in the UE 170 Rate Order, as modified by the UE 170 Reconsideration Order. Through this Second Amendment, however, PacifiCorp narrows this request by conditioning it on the receipt of an IRS response to PacifiCorp's request for a PLR that suspends or terminates the SB 408 AAC.

1 **B. Reasons for Deferral.**

2 ORS 757.259(2)(e) allows the deferral of utility revenues where necessary to match
3 appropriately the costs borne by and benefits received by ratepayers. Deferral of the
4 revenue shortfall related to the UE 170 tax disallowance is necessary to match appropriately
5 the costs borne by and benefits received by ratepayers as required by ORS 757.259(2)(e).
6 If—as a result of the IRS’s failure to rule or negative ruling—the SB 408 AAC does not allow
7 PacifiCorp to recover the actual difference between taxes collected and taxes paid in
8 calendar year 2006, deferred accounting is necessary for PacifiCorp to receive the
9 meaningful relief described in the UE 170 Reconsideration Order and to align costs and
10 benefits under ORS 757.259(2)(e). Order No. 06-379 at 15 (“A deferral is appropriate to
11 provide PacifiCorp meaningful relief of these adjustments, thereby matching appropriately
12 the costs borne by and benefits received by ratepayers.”).

13 **C. Proposed Accounting.**

14 During the period of deferral, PacifiCorp proposes to account for the tax adjustment
15 revenue shortfall for regulatory purposes as follows: the additional revenues related to the
16 unrecovered tax expense will be credited to Account 400, Operating Revenue and debited
17 to Account 182.3, Other Regulatory Assets. The amortization of the balance would be
18 accomplished by crediting Account 182.3 and debiting Account 400 coincident with the
19 inclusion in rates. PacifiCorp requests that in accordance with ORS 757.259(4) and OAR
20 860-22-41(8)(e), it be allowed to accrue interest on the entire unamortized balance as of
21 July 1, 2006, at a rate equal to its weighted average cost of capital approved by the
22 Commission in PacifiCorp’s most recent general rate case, Docket No. UE 179. In the
23 absence of deferred accounting, PacifiCorp would record this revenue shortfall in the
24 appropriate sub-account of FERC Account 401. Ratemaking treatment of deferred amounts
25 will be addressed in a future rate proceeding.

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1 **D. Estimate of Amounts.**

2 PacifiCorp requests that the deferral cover the time period in which UE 170 rates
3 were in effect—that is, from January 1, 2006 through December 31, 2006. PacifiCorp
4 estimates the amount to be recorded in the deferred account for the revenue shortfall that
5 occurred from January 1 through December 31, 2006, will be approximately \$24.090 million,
6 plus interest. PacifiCorp estimated the deferral amount according to the rules promulgated
7 in Dockets AR 499 and 517 as the difference between taxes paid and properly attributed to
8 the regulated operations of the utility and taxes authorized to be collected in rates, adjusted
9 to exclude the iterative effect.

10 This estimate of the deferral amount is provisional in nature because the actual
11 deferral amount will not be known until after the calculation and implementation of the AAC
12 for the 2006 tax year and the deferral will occur only if, as a result of the IRS's failure to rule
13 or negative ruling, the AAC does not operate to permit PacifiCorp "the opportunity to recover
14 tax payments made after [December 31, 2005] that exceed the allowable tax expense in
15 rates." Order 06-379 at 16.

16 **V. CONCLUSION**

17 PacifiCorp respectfully amends its Application for Deferred Accounting filed in this
18 docket to request that, in accordance with ORS 757.259, the Commission authorize the
19 Company to defer the expenses described in this Amended Application. In addition,

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1 pursuant to ORS 757.259(2), PacifiCorp requests a hearing on this Second Amended
2 Application for Deferred Accounting.

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4 DATED: October 15, 2007.

MCDOWELL & RACKNER PC

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8 Katherine A. McDowell
Sarah J. Adams

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10 Attorneys for PacifiCorp
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