

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 170

In the Matter of the)	
)	
INDUSTRIAL CUSTOMERS OF)	ORDER
NORTHWEST UTILITIES)	
)	
Request for Partial Payment of Issue Fund)	
Grant.)	

DISPOSITION: ISSUE FUND GRANT REQUEST APPROVED IN PART

On September 21, 2005, Industrial Customers of Northwest Utilities (ICNU) filed a second Request for Partial Payment of PacifiCorp’s Issue Fund Grant with the Public Utility Commission of Oregon (Commission). Section 7.3 of the Intervenor Funding Agreement (Agreement), which the Commission adopted in Order No. 03-388, governs the procedures for payment of Issue Fund Grants. To be eligible to receive intervenor funding under the Agreement, an intervenor must become either precertified under Section 5.2 of the Agreement or case certified under Section 5.3 of the Agreement. ICNU became precertified on July 14, 2003, in Order No. 03-405.

On December 6, 2004, ICNU filed a notice of Intent to Request an Issue Fund Grant, and on January 28, 2005, ICNU filed a proposed budget in the amount of \$147,980. The Commission approved the Issue Fund Grant and ICNU’s proposed budget on February 22, 2005 in Order No. 05-096. On May 31, 2005, ICNU sought an initial partial payment of \$87,979.79, which ICNU claimed it had expended in this proceeding through April 2005 in this proceeding. The Commission authorized the partial payment to ICNU in Order No. 05-730.

ICNU now seeks payment of the remaining portion of its approved budget in the amount of \$60,000.21. Under Section 7.3 of the Agreement, the Request for Payment must:

- 1) Itemize the expenses, payees and hourly rates of amount to be reimbursed;
- 2) Demonstrate that the expenses are reasonable and are directly attributable to issues and positions pursued on behalf of a

particular customer class and consistent with the intervenor's proposed budget; and

- 3) Provide information sufficient to show that the intervenor has complied with any conditions imposed on the Issue Fund Grant.

The Agreement provides that the Commission shall make a determination in each proceeding as to how the participating utilities are to recover the funding grants from the various customer classes. Pursuant to Section 7.7(b), Issue Fund Grants should be allocated so as to fairly align the costs of the advocacy with the intended potential beneficiaries of the advocacy.

Discussion

With its request, ICNU submitted a confidential spreadsheet detailing itemized expenses, payees, and hourly rates. The data provided indicates that ICNU seeks total reimbursement for professional legal fees that exceed the amount approved in its proposed budget. Earlier in this proceeding, ICNU explained that its request for \$147,980 from PacifiCorp's Issue Fund was "composed of \$56,480 in attorney fees, \$85,000 in expert witness fees, and \$6,500 in expenses." *See Proposed Budget for Issue Fund Grant of ICNU*, page 3 (January 28, 2005). The Commission approved payment of a substantial portion of those requested legal fees when it granted ICNU's request for partial payment in Order No. 05-730. *See ICNU Request for Partial Payment of Issue Fund Grant, Confidential Attachment A at 4*. Furthermore, ICNU seeks reimbursement of expenses that exceed the amount requested in the approved budget.

Accordingly, we conclude that ICNU's request should be granted in part. ICNU is entitled to an additional payment of \$34,033.71 from PacifiCorp's Issue Fund. This amount, combined with the \$87,979.79 payment authorized in Order No. 05-730, reimburses ICNU for its budgeted amounts approved for professional legal fees and expenses, as well as all costs ICNU reported it expended on expert witness fees. Furthermore, we have considered the intended beneficiaries, and find that the issue fund expenditures should be allocated to PacifiCorp's industrial customers. Pursuant to Section 7.2 of the Agreement, PacifiCorp shall pay the Issue Fund Grant to ICNU within 30 days after receipt of this order.

ORDER

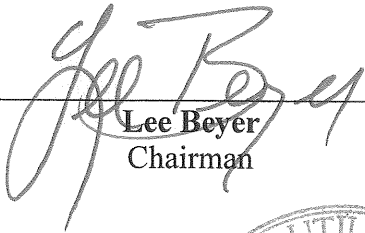
IT IS ORDERED that:

1. Industrial Customers of Northwest Utilities has met the requirements of the Intervenor Funding Agreement, and its request is approved in part.

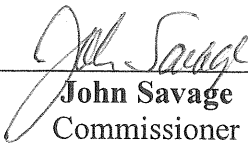
2. PacifiCorp shall pay \$34,100.05 from the PacifiCorp Issue Fund to Industrial Customers of Northwest Utilities within 30 days after receipt of this Order, and the grant shall be assessed to PacifiCorp's industrial customers.

Made, entered, and effective

OCT 05 2005



Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 170

In the Matter of)	
)	
PACIFIC POWER & LIGHT)	REQUEST FOR PARTIAL PAYMENT OF
(dba PACIFICORP))	ISSUE FUND GRANT OF THE
)	INDUSTRIAL CUSTOMERS OF
)	NORTHWEST UTILITIES
Request for a General Rate Increase in the)	
Company's Oregon Annual Revenues.)	
_____)	

Pursuant to Section 7.3 of the Intervenor Funding Agreement (“IFA”) adopted by the Oregon Public Utility Commission (“Commission”) on July 2, 2003 (Order No. 03-388), the Industrial Customers of Northwest Utilities (“ICNU”) hereby requests partial payment of ICNU’s Issue Fund Grant in Docket No. UE 170.

On December 6, 2004, ICNU filed a Notice of Intent to Request an Issue Fund Grant in this docket. On January 28, 2005, ICNU filed a proposed budget in the amount of \$147,980. The Commission approved the Issue Fund Grant and ICNU’s proposed budget on February 22, 2005. Re PacifiCorp, OPUC Docket No. UE 170, Order No. 05-096 (Feb. 22, 2005). On May 27, 2005, ICNU submitted a Request for Partial Payment in the amount of \$87,979.79, which ICNU had expended in this proceeding through April, 2005. The Commission approved the request on June 13, 2005. Re PacifiCorp, OPUC Docket No. UE 170, Order No. 05-730 (June 13, 2005).

At this time ICNU requests that the Commission authorize payment of the remaining portion of ICNU’s approved budget in the amount of \$60,000.21. The total

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amount of costs and fees expended by ICNU in UE 170 since its first Request for Partial Payment is shown in Confidential Attachment A. While ICNU has expended a higher amount than ICNU's approved budget, ICNU's requests for payment together equate to \$147,980, which is the amount of the approved budget for ICNU's issue fund grant in this proceeding. ICNU reserves the right to file a Matching Fund Request for the remaining amount that ICNU has expended in this proceeding.

This Request for Payment satisfies the requirements of the IFA as follows:

Section 7.3(a) – The itemized expenses, payees, and hourly rates are attached as Confidential Exhibit A.

Section 7.3(b) – ICNU is a full and active participant in this Docket. ICNU submitted direct and rebuttal testimony, engaged in discovery, participated in settlement discussions, workshops, the hearing, and the oral argument. ICNU submitted a prehearing brief, a posthearing brief, and a reply brief. The expenses included in Confidential Exhibit A are reasonable and directly attributable to ICNU's participation in UE 170.

Section 7.3(c) – ICNU's Issue Fund Grant was not subject to any conditions.

Section 7.4 – All of the expenses included in Exhibit A are Eligible Expenses as defined in Section 7.4 of the IFA because they relate to services provided or expenses incurred by ICNU's outside legal counsel and expert witnesses. Relevant non-privileged documents substantiating the Eligible Expenses in Confidential Exhibit A are available for Commission audit, if requested, pursuant to Section 7.10 of the IFA.

The IFA provides that the granting of "an Issue Fund Grant shall constitute a binding obligation on the Commission to order reimbursement of Eligible Expenses." IFA § 6.5. Likewise, the intervenor funding rules adopted by the Commission provide that "the terms of an [intervenor funding] agreement will be binding on all organizations seeking a grant under that agreement and will be followed by the

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Commission in administering the agreement.” OAR § 860-012-0100(2). ICNU has satisfied the terms of the IFA and respectfully requests that the Commission approve partial payment of ICNU’s Issue Fund Grant in the amount of \$60,000.21 within 30 days of receiving this Request for Payment as provided in Section 7.6 of the IFA.

Payment should be sent to:

Michael Early
Industrial Customers of Northwest Utilities
333 S.W. Taylor, Suite 400
Portland, Oregon 97204

Dated this 20th day of September, 2005.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.



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