

ORDER NO. 00-393

ENTERED JUL 21 2000

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 94

In the Matter of the Revised Tariff)
Schedules in Oregon filed by PacifiCorp,) ORDER
d.b.a. Pacific Power and Light Company.)

**DISPOSITION: SECOND PETITION TO AMEND
DISMISSED AS MOOT**

On June 13, 2000, PacifiCorp, d.b.a. as Pacific Power & Light (PacifiCorp), filed a second petition to amend Order No. 98-191. Like the first request, PacifiCorp seeks to amend the order to allow the company more time to submit its yearly earnings review. On June 22, 2000, the Citizen's Utility Board (CUB) filed a reply opposing PacifiCorp's request. For reasons discussed below, we dismiss PacifiCorp's request as moot.

BACKGROUND

In Order No. 98-191, this Commission approved an alternative form of regulation (AFOR) applicable to PacifiCorp's Oregon distribution operations. Among other things, the order requires PacifiCorp to provide an annual earnings report for the most recent calendar year by April 30th of each year.

On April 26, 2000, PacifiCorp filed a petition to amend Order No. 98-191 to allow a one-month extension of time to May 31, 2000, to file the company's earning report reflecting its 1999 earnings experience. In support of its petition, PacifiCorp stated that the company was currently processing four general rate cases, including docket UE 111 in Oregon, and that its regulatory personnel were extremely busy. PacifiCorp further clarified that the request applied only to this year's earnings report filing and that the company was not seeking an amendment of the order to govern future filings. PacifiCorp also asserted that no party would be unduly prejudiced by the extension.

We granted PacifiCorp's initial request in Order No. 00-287. We did so for two primary reasons. First, no party filed an objection to PacifiCorp's request. Second, we agreed with PacifiCorp that no party would be unduly prejudiced by the one-month extension. We noted that the company had agreed to attribute an appropriate

carrying charge to any earnings adjustment amount shown to be necessary if the earnings report shows that an earnings band adjustment is required under the terms of the AFOR.

Following the extension, however, PacifiCorp failed to submit an earnings review by May 31st. Instead, on June 13, 2000, the company filed a second petition to amend the terms of the AFOR to allow a further extension of time until June 30, 2000. In its second request, PacifiCorp cited the same reasons provided in the first for the need for additional time.

CUB opposes PacifiCorp's second request for additional time. CUB argues that, in agreeing to the AFOR, the company accepted responsibility for submitting timely earnings review on April 30th of each year. It also points out that, despite the claims of being overworked, PacifiCorp was able to submit other filings required under the AFOR that enabled the company to raise its annual revenues by some \$13.66 million. Moreover, CUB notes that the company should not be able to cite workload as an excuse for delay when it was responsible for initiating the four rate cases simultaneously in four states.

CUB also contends that customers will be harmed by the delay. Because PacifiCorp is no longer required to file a semi-annual earnings report, CUB argues that the April 30th earnings report is the easiest method by which customers can determine the company's earnings. Noting that the company also received an extension to file its FERC 1 form filing, CUB questions PacifiCorp's actions in claiming that it is under-earning while not allowing anybody to see its earning data. Finally, CUB feels frustrated by the timing of PacifiCorp's second petition, acknowledging that the extension date requested by the company will likely have come and gone by the time the motion is ruled upon.

DISCUSSION

We share CUB's frustration about the timing of PacifiCorp's request for a second extension to amend Order No. 98-191. By waiting until June 13th to file the request, PacifiCorp all but guaranteed that a ruling on its motion would not be issued until after the requested extension date of June 30th. Indeed, that is what has transpired. We take official notice that PacifiCorp filed its earnings report on June 30, 2000. That filing has, as CUB anticipated, eliminated any issue to be resolved in this matter. Accordingly, we dismiss PacifiCorp's request as moot.

We take this opportunity, however, to state our disappointment in PacifiCorp's actions. As CUB notes, the company agreed to file an annual earnings report under the terms of the AFOR and has been on notice for over two years that an earnings report would be due on April 30th of this year. Although PacifiCorp asked for and received a one-month extension to make the filing, the company failed to meet the new deadline and waited some two additional weeks to request another extension.

To justify its conduct, the company cites time constraints currently placed on its regulatory personnel. However, as CUB points out, the company initiated the four rate cases it now uses as an excuse for a delay. Further, we share CUB's observation that these workload issues did not prevent the company from submitting a timely application to support an index-based, decoupling, and system benefits charge rate increases under the AFOR. In the future, we anticipate that PacifiCorp will take all steps necessary to meet its regulatory obligations and contact the Commission in a more timely manner if difficulties arise.

ORDER

IT IS ORDERED that the second request to amend Order No. 98-191, filed by PacifiCorp, d.b.a. Pacific Power & Light Company, is dismissed as moot.

Made, entered, and effective _____.

Ron Eachus
Chairman

Roger Hamilton
Commissioner

Joan H. Smith
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 of 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. A party may appeal this order to a court pursuant to applicable law.