ORDER NO. 01-085

ENTERED JAN 09 2001

**This is an electronic copy. Attachments may not appear.**

# BEFORE THE PUBLIC UTILITY COMMISSION

# OF OREGON

UM 995

| | | |
|---|---|---|
| In the Matter of the Application of | ) | |
| PacifiCorp for an Accounting Order | ) | ORDER |
| Regarding Excess Net Power Costs. | ) | |

DISPOSITION: APPLICATION MAY PROCEED

On November 2, 2000, PacifiCorp applied for authorization to use deferred accounting for its excess net power costs. PacifiCorp defines excess net power costs as "the difference between the net power costs implicit in the Stipulation approved by the Commission in Docket UE 111, on a per MWh basis, and the Company's actual net power costs during the deferral period." Deferred power costs are to be calculated monthly and recovered in rates after August 1, 2001.

The application was docketed, and Commission Staff (Staff), Citizens' Utility Board (CUB), and Industrial Customers of Northwest Utilities (ICNU) filed comments. CUB and ICNU oppose the application.

We issue this order to review the legal arguments made by CUB and ICNU in opposition to PacifiCorp's application. We find that CUB and ICNU have not prevailed and that the application therefore may proceed. However, we ask that the parties meet to pursue the questions Staff listed in its comments, set out below. The final procedural and substantive decisions on the application will then be made after Staff receives answers to its questions and reviews the answers.

**Background**.

On September 25, 2000, the Commission signed Order No. 00-580 (Docket UE 111) adopting three stipulations regarding new rates for PacifiCorp. At issue is the stipulation signed by CUB, ICNU, Tim Watson, Staff, and PacifiCorp in September of 2000, which "resolves (a) all revenue requirement issues raised by Staff that were not resolved in the First Revenue Requirement Stipulation and (b) all revenue requirement issues raised by ICNU, CUB, and Watson." The only issue remaining from the First Revenue Requirement Stipulation between the company and Staff was net power costs.

Order No. 00-580 approved a rate increase of about 1.8 percent for PacifiCorp in Oregon. The rate case was based on an historic test year, 1998, with adjustments for known and measurable changes.

PacifiCorp's application is based on ORS 757.259(2), which provides in relevant part:

> (2) Upon application of a utility or ratepayer or upon the commission's own motion and after public notice and opportunity for comment, the commission by order may authorize deferral of the following amounts for later incorporation in rates:
>
> * * * * *
>
> (e) Utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.

**Staff's Position.**

Staff does not oppose PacifiCorp's application but would like to explore several issues before deciding whether to recommend that the Commission approve PacifiCorp's application. Staff recommended that the parties meet to discuss the issues it listed in its comments, set out below:

1. What is the appropriate base power cost to use in calculation of excess net power costs?
2. How should special contract prices be taken into account in the calculation?
    - Wah Chang has market based pricing. Those higher Wah Chang revenues are not reflected in current rates. The company's application would pick up the higher power costs for service to Wah Chang, but not the offsetting higher revenues.
    - Staff noted in UE 111 that the Oregon Commission does a better job of assuring fairly priced special contracts than some other state Commissions. Accordingly, there may be instances when the company is committed to buying power to serve special contracts in other states at a price considerably higher than the revenue it receives from those contracts. For instance, there may be times when PacifiCorp buys power to serve Utah special contract customers at five times the cost that those customers will pay.

3. Should the company be allowed to recover less than 100 percent of its excess net power costs in order to provide an incentive for power cost minimization?
4. Does PacifiCorp's AFOR already provide a partial recovery mechanism?
5. Should there be an earnings band mechanism, similar to that in PacifiCorp's current AFOR?
6. Who should bear the weather risk?
7. Who should bear the seasonality risk of revenues and costs?
8. How should additional revenues generated by customer growth and other factors be taken into consideration?
9. Would approval of this application shift normal business risk from the company to the customer?
10. Is there some alternative recovery mechanism that may be more appropriate than deferred accounting?

**Positions of CUB and ICNU.**

***CUB*** contends that when it signed the stipulation in September, it believed it was establishing a revenue requirement until the next general rate case. CUB notes that it made certain concessions during negotiations before signing the stipulation. CUB thought that in return for its concessions, PacifiCorp was agreeing to the revenue requirement established in the stipulation and that PacifiCorp was making concessions with respect to power costs. According to CUB, the Commission must only decide that PacifiCorp entered into an agreement with the other parties and the Commission, via the stipulation of September 2000, to deny the deferred accounting application.

CUB further contends that PacifiCorp was aware of changes in the power market when it signed the stipulation. PacifiCorp's 1998 historic test year in UE 111 involved adjustments for known and measurable changes, CUB notes. Therefore, CUB argues, PacifiCorp knew in September that the power market prices had risen in May of 2000 and should not be allowed to file for deferred accounting now on the basis of what it should have included in its rate case in UE 111. CUB contends that if PacifiCorp could not live with the revenue requirement established in the settlement agreement, it should not have signed the stipulation. CUB argues that the language of the deferred accounting statute does not cover situations contemplated when the existing revenue requirement was established. According to CUB, PacifiCorp should have filed supplemental information about the increase in power costs and asked the Commission to adjust the test year to take that information into account.

CUB argues that using deferred accounting to recoup power costs is a major change to the traditional regime of rate cases. For one thing, CUB contends, deferred accounting shifts the risk from the company to the customer. In the traditional case, the utility may do better or worse than expected given the revenue requirement, but the utility also controls the timing of

rate cases. Thus, the utility is situated to deal with the risk that the revenue requirement will be inadequate. Under deferred accounting, the customer bears the risk for the set of market costs at

issue. Therefore, the utility's rate of return and return on equity should be reduced. However, it is impossible to revisit PacifiCorp's rate of return and return on equity, since those numbers are established in a general rate case.

***ICNU*** also opposes the application. ICNU makes four primary arguments, which we summarize below and then discuss in greater detail:

(1) Approval of the application would establish a *de facto* power cost adjustment mechanism, which would violate traditional ratemaking principles and inappropriately shift risk to customers;

(2) Approval of the application would violate the stipulation in UE 111 and the order adopting the stipulation;

(3) Approval of the application would violate ORS 757.259; and

(4) Approval of the application would violate previous Commission decisions regarding deferred accounting.

Finally, ICNU argues that the application does not specify what costs will be deferred or how such costs will be determined.

***Discussion.***

(1) ICNU argues that PacifiCorp should change its rates through a general rate case, not through a deferred accounting application. The utility must bear the risk that it will not achieve its authorized rate of return. The risk, according to ICNU, creates a necessary incentive to seek efficiencies. ICNU points out that PacifiCorp filed its UE 116 rate case (its SB 1149 filing) on October 2, 2000. This case involves a complete revision of PacifiCorp's revenue requirement along with an unbundling of rates and services to comply with the direct access provisions of SB 1149.

ICNU argues that the deferred accounting statute was created for small, discrete expenditures or revenues that would not be included in permanent rates. Any increase in PacifiCorp's power costs should be addressed in UE 116, PacifiCorp's SB 1149 rate filing. ICNU contends that the Commission has recognized that once a rate case is underway, a utility is precluded from filing a deferred accounting application except in limited circumstances. Thus, according to ICNU, the proposed deferral is a manipulation of the Commission's procedures that threatens the integrity of the ratemaking process.

ICNU maintains that approval of PacifiCorp's application would constitute a *de facto* power cost adjustment (PCA). PacifiCorp is asking the Commission to allow it to track and recover actual increased power costs while the rest of its rates are based on the normalized results of operations included in UE 111. PCAs provide no incentive for utilities to minimize power costs, ICNU contends; therefore, regulators often use a sharing mechanism to create an incentive to reduce costs. PCAs also shift the risk of power cost volatility to ratepayers. As CUB argued, ICNU also contends that such risk shifting is inappropriate unless there is an

explicit reduction in the utility's cost of capital to reflect its reduced risk. That is, customers must pay for cost increases via the deferred accounting procedure, but the utility receives the benefit of cost reductions.

ICNU also contends that PCAs create difficult issues of measurement, because increased power market prices often create opportunities for increased sales for resale, which should be accounted for in the PCA. This uncertainty is particularly acute in PacifiCorp's proposal, because the application provides no description of the method for calculating PacifiCorp's actual net power costs during the deferral period.

ICNU contends that the Commission has narrowly interpreted the deferred accounting statute and reduced the risk shifting by requiring earnings tests and normalization of adjustments or by reducing the amount allowed to be recovered under deferred accounting. *See, e.g.,* UE 76, Order No. 1128; UE 82/UM 445, Order No. 93-257; UM 529, Order No. 93-309.

ICNU argues that PacifiCorp has the potential to reduce costs by virtue of its transition plan for the merger with Scottish Power and that these cost reductions should be factored into the application for deferral.

(2) ICNU maintains that PacifiCorp's deferred accounting application violates the UE 111 stipulation. The stipulation covered purchased power costs, which were adjusted for known and measurable changes. The increased power costs at issue here were known and measurable during the UE 111 case. PacifiCorp should have raised the issue then. ICNU points out that the parties believed that the power cost issues were settled by the stipulation. If the Commission now allows deferral and recovery of excess net power costs, it will increase the power cost component of the UE 111 revenue requirement agreed to in the stipulation, which would deprive the parties of the benefit of their bargain. Since the stipulated revenue requirement in UE 111 was agreed to with knowledge of current market conditions, PacifiCorp's current rates reflect current market conditions.

(3) ICNU argues that PacifiCorp's application does not comply with ORS 759.259. Deferred accounting refers to recording a current expense or revenue associated with current service as allowed by 757.259 in a balance sheet account, with Commission authorization for later reflection in rates. ICNU believes that PacifiCorp's application does not satisfy the standard for deferred accounting under ORS 757.259(e). Without explicit statutory authority, ICNU argues that the application must be denied. Additionally, ICNU contends that the Commission's grant of authority under the deferred accounting statute must be narrowly construed. *See, e.g.,* Order No. 92-1128 at 8.

In support of its position on this issue, ICNU argues that PacifiCorp's deferred accounting application will not minimize the fluctuation or frequency of rate changes and will also not match costs and benefits to ratepayers, both requirements of ORS 757.259(e). PacifiCorp states that without a deferral, it would be required to file for immediate rate relief, despite the fact that it has already filed UE 116 with new, higher power costs. ICNU believes that the alleged excess power costs should have been included in UE 111 or UE 116 as a matter of traditional ratemaking. PacifiCorp could ask for interim rate relief but would need to show severe financial stress (UE 47/48, Order No. 87-1017). PacifiCorp has, according to ICNU,

made no such showing. Not only will a deferral of power costs in this proceeding fail to lessen the frequency of rate cases; allowing PacifiCorp to sandwich this deferred accounting application between these two rate cases will encourage utilities to propose significant rate changes in a piecemeal fashion. That behavior will increase fluctuations in rates and defeat the purpose of the deferred accounting statute.

ICNU also argues that the deferred accounting application does not match ratepayer costs and benefits. When customers will not derive future benefits from certain expenditures, it is not appropriate to defer the expenditures. A deferral of PacifiCorp's excess net power costs will not result in a matching of costs and benefits, according to ICNU. First, any deferred costs will not necessarily be paid by the customers who caused the costs. Current customers use power at rates that do not include deferred costs, and future customers will pay the deferred costs even if they were not customers when the deferral took place. Second, the deferral shifts the risk of managing power supply costs from the utility to its customers.

(4) Finally, ICNU contends that PacifiCorp seeks deferred accounting for anticipated costs and circumstances, which is an inappropriate use of the deferred accounting statute. The volatile nature of power markets was known and expected during PacifiCorp's most recent rate case. PacifiCorp admitted as much in its rebuttal testimony. ICNU argues that the deferred accounting statute has not been used to recover ordinary purchased power expenses, especially where the ratepayers will receive no benefits.

Moreover, ICNU argues that PacifiCorp's application is for nondiscrete costs. In UE 76, Order No. 92-1128 at 8, the Commission stated that deferrals under ORS 757.259(2)(e) should be for "discrete items that might substantially affect a utility's earnings on a short term basis." The plain meaning of "discrete" is a cost that is distinct from other costs. For purposes of the deferred accounting statute, utilities incur discrete costs in relation to specific expenditures or over definite periods of time, but not in an ongoing and continuous manner. In the past, the Commission has authorized deferral of costs such as Portland General Electric Company's (PGE) litigation (UM 769, Order No. 95-1262); PGE's energy efficient investment (Order No. 93-346); PGE's replacement power costs (Order No. 93-309); and Idaho Power Company's costs of corporate reorganization and employee compensation (Order No. 90-311). The deferrals authorized in these dockets all relate to distinct expenditures of specific amounts in response to specific cost events.

PacifiCorp does not ask to defer distinct, short term expenses incurred in response to a specific event such as litigation or energy efficient investment. Instead, ICNU argues that PacifiCorp requests deferral of ongoing power costs that it will incur indefinitely. PacifiCorp does not offer a time frame within which the underlying circumstances driving the power costs will be reformed, nor does it propose when they will be addressed. Because PacifiCorp has included these purchased power costs in its UE 116 rate case, it anticipates that the need for deferred accounting will cease after approval of the new rates in UE 116. But the deferred accounting statute was not meant to be a substitute for permanent increases in utility rates. Order No. 92-1128 at 8. The Commission has recognized that any permanent, long term increases in utility costs should be included in normal rates, not in a deferred account. Finally, ICNU contends that PacifiCorp's excess net power costs are not discrete, because PacifiCorp's

application contains no definitive method for calculating them but refers to general power cost increases. This type of nondiscrete expense, ICNU contends, is not subject to deferral under ORS 757.259(2)(e).

If the Commission should approve PacifiCorp's application, ICNU urges us to impose a sharing mechanism by allowing only a portion of the excess net power costs to be deferred, as an incentive to PacifiCorp to minimize costs. ICNU also asks us to condition future recovery of deferred costs on a showing that PacifiCorp's power costs were prudent. Third, ICNU asks that recovery of the deferred power costs should be contingent on a cost of capital reduction to account for the reduced risk to PacifiCorp. Fourth, ICNU asks that PacifiCorp be required to show that deferral will not cause earnings to be above the maximum reasonable level. Finally, ICNU asks that power cost deferrals be offset with cost savings resulting from the implementation of the transition plan for the merger with Scottish Power, as well as any other cost savings that occur during the deferral period.

**PacifiCorp's Position.**

PacifiCorp urges the Commission to grant its application for the four reasons summarized below and discussed subsequently in greater detail:

(1) PacifiCorp seeks only to recover its actual prudently incurred power costs. The CUB and ICNU comments seek to deny PacifiCorp's ability to recover these costs. CUB's and ICNU's reasons for denial are without merit.

(2) The deferred accounting application is proper under ORS 757.259, as the costs are within the scope of that provision and the purpose of requesting the relief was to avoid another separate rate filing.

(3) PUC precedent supports use of deferred accounting in these circumstances.

(4) The application is not barred by the stipulation in UE 111. There should be no sharing of costs deferred, as no further incentive is needed under these circumstances and a sharing would deny PacifiCorp the recovery of its costs. PacifiCorp has already borne a significant portion of these higher costs, from May 2000 through October 2000, by delaying the relief requested until November.

***Discussion*.**

(1) PacifiCorp argues that its application would allow it to recover only actual, prudently incurred power costs. The application seeks deferral of PacifiCorp's excess net power costs beginning November 1, 2000. Since May of 2000, PacifiCorp has experienced wholesale purchased power costs at unprecedented high levels. These costs, PacifiCorp argues, are substantially higher than the wholesale market prices on which PacifiCorp's net power costs in rates are based. The annual average market price of purchased power included in the UE 111

stipulation is approximately $23 per MWh. At the time this application was filed, PacifiCorp expected the annual average market price of power during 2001 to be approximately three times higher. More recent updates place this figure even higher.

PacifiCorp projected when it filed its application that extraordinarily high purchased power costs for January 1, 2001, through December 31, 2001, would cause PacifiCorp's net power costs attributable to Oregon to exceed the level currently in rates by about $63 million. More recent events will force this figure even higher. PacifiCorp contends that deferred accounting treatment is an appropriate, just, and reasonable means of providing PacifiCorp an opportunity to seek recovery of the extraordinary excess purchased power costs it is incurring.

(2) PacifiCorp argues that the costs it proposes to defer meet the requirements of ORS 757.259(2)(e). In the absence of deferred accounting, PacifiCorp would file for immediate rate relief, as PGE did in its UE 117 filing (now withdrawn), in addition to its SB 1149 filing. PacifiCorp could have submitted a separate rate filing to recover extraordinary power costs during the interim period before the effective date for the new unbundled rates in UE 116. This deferred accounting application attempts to avoid making that separate rate application.

Given the more recent significant upward shift in power costs and projections for 2001, and the 3 percent per year limit on amortization of deferred amounts (*see* ORS 757.259(6)), PacifiCorp notes that a power cost rate filing may also be necessary. PacifiCorp argues that the prospect that a rate filing will become necessary does not invalidate this application. Extraordinary power costs have been incurred since November 1 and are expected to persist. The issue going forward is not whether deferred accounting is necessary and appropriate but whether it is sufficient.

(3) PacifiCorp argues that the relief it requests is supported by Commission precedent. In response to ICNU's claims that the deferred accounting statute "has not been used to recover ordinary purchased power expenses," PacifiCorp argues that these are not ordinary expenses but arise from extraordinary circumstances in the wholesale energy markets. Moreover, the Commission has previously authorized the use of the deferred accounting statute for recovery of purchased power costs. In UM 480, Order No. 92-1130, the Commission authorized Idaho Power, under ORS 757.259, to defer part of Oregon's share of excess power supply costs beginning March 23, 1992 (the date of Idaho Power's application), through December 31, 1992. (The percentage of recovery was tied to the level allowed in a temporary rate increase by the Idaho Public Utility Commission.)

Similarly, in an Idaho Power case, UM 673, Order No. 94-1111, the Commission authorized deferred accounting treatment for 60 percent of Oregon's share of the deferred power costs for a period commencing on May 13, 1994, the date of Idaho Power's application, through December 31, 1994. The basis was the deferred accounting statute, ORS 757.259. The Commission decided that deferral was appropriate for a portion of the utility's drought related excess power supply costs.

Idaho Power obtains about 60 percent of its generation from hydroelectric resources under normal water conditions. The rest of its generation comes from the company's share of three coal fired generating plants as well as from wholesale power purchases. When lower than normal water conditions exist, the company must augment its hydro generation with larger amounts of more expensive thermal resources and power purchases. The deferred accounting request was necessary because of unusually poor water conditions occurring over an extended period of time prior to the deferral period and because the company had concerns about the impacts of continued low water and higher power costs upon its financial results. The 60 percent recovery was not a sharing approach but was based on the percentage of generation produced by hydro resources.

Thus, PacifiCorp argues, the Commission has allowed deferred accounting for recovery of extraordinary power costs. ICNU's claims that costs are not "discrete" and that PacifiCorp's application contains no definitive method for calculating them are without merit. PacifiCorp maintains that its application is explicit about the costs to be included and the manner of their calculation. The excess net power costs proposed to be deferred will be calculated as the product of (a) the difference between the net power costs implicit in the stipulation approved by the Commission in UE 111 on a per MWh basis, and the company's actual net power costs during the deferral period, on a per MWh basis, and (b) the retail load used for setting rates in UE 111. These excess net power costs are proposed to be calculated on a monthly basis.

(4) Finally, PacifiCorp argues that its application is not barred by the stipulation in UE 111. The stipulation provided for an increase of about 1.8 percent in PacifiCorp's electric rates in Oregon. PacifiCorp argues that nothing in the stipulation prevents PacifiCorp from filing for any form of rate relief prior to the SB 1149 rates taking effect.

The document contains no explicit provision on this point, but PacifiCorp contends that the power costs for which recovery is sought were not within the scope of the stipulation. The test period in UE 111 was the 12 months ended December 31, 1998, which did not include any of the higher power costs for which PacifiCorp requests deferral treatment. PacifiCorp's original filing included adjustments to normalize costs and revenues associated with long term firm wholesale sales and purchase contracts through June 30, 2001. Through the stipulation process it became clear that Staff would not accept this. Staff's memorandum of April 14, 2000, in UE 111, states:

> The Company's filing makes several adjustments to reflect normal cost changes occurring between the end of the test period and June 2001. Staff chose to limit adjustments to major or unusually significant changes—such as coal costs—that occur within 12 months of the end of the test period.

This limitation was generally accepted as the basis for the remaining settlement discussions. PacifiCorp subsequently agreed to remove the impact of these adjustments that occurred outside the test period. Thus, the rates agreed on in that proceeding, which became

effective October 1, 2000, do not reflect the higher power costs at issue here. Rather, PacifiCorp seeks in this application to defer the excess power costs over and above the levels adopted in UE 111, with the UE 111 levels establishing the baseline for calculating the requested deferrals.

According to PacifiCorp, this application is not barred either by the letter or the spirit of the stipulation. The clear terms of the stipulation do not preclude PacifiCorp from filing for any form of rate relief before the SB 1149 rates take effect. Nor were the rates set in UE 111 intended to reflect these higher power costs, as the basis for known and measurable changes agreed on by parties was limited to the period before 2000.

PacifiCorp maintains that CUB's and ICNU's interpretation of the UE 111 stipulation serves only to deny PacifiCorp an opportunity to recover the higher power costs it has incurred and will continue to incur during the period between October 1, 2000 (the effective date of rates in UE 111), and August 1, 2001, the proposed effective date of rates in UE 116. The company's power costs are undeniably higher during this period than the levels reflected in UE 111.

ICNU has suggested that PacifiCorp be denied a portion of the deferred costs to create a financial incentive for PacifiCorp to minimize its power costs, citing to UM 529, Order No. 93-309, where the Commission authorized deferral of 80 percent of the utility's incremental power replacement costs from a Trojan nuclear plant outage. A sharing was adopted in that case due to the unusual circumstances. Specifically, the 20 percent under recovery imposed on the utility was designed to reflect the operational risks that PGE would have assumed with respect to Trojan and PGE's ability to reduce other Trojan related costs. Such circumstances are not present with respect to the power costs PacifiCorp seeks to defer here.

In fact, PacifiCorp argues that through forward purchases through 2001, PacifiCorp has mitigated (but not eliminated) its exposure to excess net power costs during the proposed deferral period. These are actual power costs PacifiCorp will incur and PacifiCorp needs no further incentive to minimize these costs. Events following these forward purchases, such as the upswing in wholesale power prices, will result in further power cost increases. Because the behavior of wholesale power markets is outside PacifiCorp's control, an incentive to PacifiCorp would have little effect. Any sharing would serve only to deny PacifiCorp the opportunity to recover its actual power costs. Moreover, a sharing has already been effected through PacifiCorp bearing these extraordinarily high power costs during the five months preceding this application, from May through October 2000. The company has already borne a portion of the impact from these higher power costs.

PacifiCorp also maintains that the conditions imposed by ORS 757.259 are sufficient and no further conditions should be imposed. The statute limits deferral to a 12 month period; allows recovery only in a proceeding to change rates and on review of the utility's earnings; and limits the impact of amortization in any one to 3 percent of the utility's gross revenues for the preceding calendar year. PacifiCorp notes that it has included in its UE 116 rate case filing a request to recover excess net power costs deferred in accordance with this requested authorization. PacifiCorp also proposes that the length of the amortization of such deferred amount will be established in that case to ensure that the overall average rate impact

of the amortization does not exceed 3 percent of PacifiCorp's Oregon gross revenues for the preceding year (2000), as required by ORS 757.259(6). The SB 1149 proceeding before the Commission also provides the appropriate forum as "a proceeding to change rates," as required by ORS 757.239(4). According to PacifiCorp, ICNU's suggested further conditions are not necessary.

Finally, PacifiCorp contends that the scrutiny of the ratemaking process provides considerable incentive to PacifiCorp. This application seeks only the authority to defer requested amounts, with recovery to be determined later. PacifiCorp is not requesting a determination of the ratemaking treatment of the excess purchased power costs at this time. Any such determination will be made in the subsequent proceeding when the deferred amounts are proposed for amortization in rates and presumably will be subject to a review as to their prudence at that time.

**Commission Disposition.**

We find that PacifiCorp has convincingly rebutted CUB's and ICNU's legal arguments against its application. The stipulation in UE 111, adopted in Order No. 00-580, does not bar this application. As PacifiCorp has noted, Staff's memo of April 14, 2000, makes clear that adjustments to the test year in UE 111 were limited to the 12 months following the end of the test year (that is, to December 31, 1999) and could not have included the power costs at issue here. Moreover, the stipulation in no way precludes PacifiCorp from filing for rate relief on the basis of events that occurred after the end of the adjustment period.

We also find that PacifiCorp's application does not violate the deferred accounting statute. In lieu of filing this deferred accounting application, PacifiCorp could have filed for interim rate relief. Thus, this filing may minimize the frequency of rate changes, because the changes will be included in the rate changes in UE 116 or in a subsequent rate proceeding. The statutory requirement of matching burdens and benefits is stated in the alternative.

PacifiCorp's application and the circumstances underlying it are also within the ambit of prior Commission decisions on deferred accounting. We agree with PacifiCorp that the expenses for which it seeks deferred accounting are based on extraordinary behavior of the power markets and are not ordinary power cost expenses. We do not read our previous deferred accounting cases as a bar to granting this application. As for ICNU's argument that PacifiCorp's application asks to defer costs that are not discrete, the term "discrete" is open to interpretation. We leave a determination on whether the costs are discrete and thus appropriate for deferral until after parties have met to resolve Staff's concerns.

Regarding ICNU's concerns about a *de facto* PCA, we believe that the safeguards provided by our statutory review process of the deferral, should the application be granted, allow us to make a reasoned decision on how and how much of the deferred amount should be recovered. We do not believe that the deferred accounting process necessarily shades off into a PCA.

We make no determination on the merits of PacifiCorp's deferred accounting application at this time. We decide only that CUB and ICNU have not raised legal bars to granting the application, and conclude that Staff and the parties should meet with PacifiCorp to address Staff's concerns, set out above.

## ORDER

IT IS ORDERED that PacifiCorp's application for deferred accounting may proceed for further consideration.

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. The request must be filed with the Commission within 60 days of the date of service of this order and 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.