ORDER NO. 08-263

ENTERED 05/22/08

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1147

In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Staff Request to Open an Investigation Related to Deferred Accounting.	)))))))	ORDER

DISPOSITION: INTEREST RATE FOR AMORTIZED DEFERRED ACCOUNTS AND GUIDELINES ESTABLISHED

I. BACKGROUND

The Public Utility Commission of Oregon (Commission) initiated this docket to clarify and revise, as necessary, policies regarding the application of the deferred accounting statute, ORS 757.259. One issue identified in the investigation was the proper interest rate to be applied to a utility's deferred accounts. Historically, a utility's deferred accounts have earned interest based on that utility's authorized rate of return (AROR), as approved in the utility's most recent general rate case.

In the first phase of this docket (Phase I), the Commission declined to alter this practice and apply over the entire period of a deferral, an interest rate that is different than a utility's AROR. *See* Order No. 05-1070 at 13-14. Yet the Commission authorized further investigation regarding whether a different interest rate should be applied to deferred accounts during the discrete period of amortization.

In the second phase (Phase II) of this docket, the Commission determined that a rate other than a utility's AROR should be applied to deferred accounts during the period of amortization. *See* Order No. 06-507 at 4. The Commission authorized additional investigation, in a third phase (Phase III), to determine what that rate should be. As guidance, the Commission indicated that the rate of return on amortized deferred accounts should match, to the extent possible, the lower level of risk associated with carrying nearly guaranteed amortized funds on a short-term basis.

II. PROCEDURAL BACKGROUND

On June 13, 2007, a prehearing conference was held in Phase III of this docket. Conference participants agreed to develop an issues list and to file two rounds of simultaneous comments. Commission Staff (Staff) filed comments, as did the following parties: Idaho Power Company (Idaho Power), Portland General Electric Company (PGE), PacifiCorp, dba Pacific Power (Pacific Power), and the Industrial Customers of Northwest Utilities (ICNU). Northwest Natural Gas Company (NW Natural) also filed closing comments.

Comments addressed the following seven (7) questions:

1. What is the rate of return that should be applied to deferral accounts after amortization is granted?
2. How should the post-amortization rate of return be established?
3. Are there exceptions that should apply to Idaho Power?
4. How should the rate of return be set for accounts that are currently accruing prospective deferrals?
5. How should the rate of return be set for accounts under the provisions of the 1980 Northwest Power Act?
6. Should there be a materiality threshold under which the post-amortization return is not reset?
7. Should the newly established post-amortization rates of return apply to existing deferrals, or should it be applied on a prospective basis?

The positions of Staff and parties on each of these issues are summarized in Section III of this order, below. In Section IV of this order, the Commission collectively resolves all seven issues.

III. POSITIONS OF STAFF AND THE PARTIES ON THE ISSUES

A. *What Is the Rate of Return that Should Be Applied to Deferral Accounts After Amortization Is Granted?*

1. *Staff*

The Commission indicated in Order No. 06-507, Staff asserts, that the rate of return on deferred accounts during amortization should be commensurate with the financial risks attendant with such funds. Staff also recalls that the Commission anticipated that utilities would separately finance deferred accounts at amortization. Staff concludes that it is appropriate to apply a blended one-, three- and five-year Treasury rate (Blended Treasury Rate) as the rate of return on amortized deferred accounts.

Staff asserts that a Treasury-based interest rate on amortized deferred accounts is appropriate due to the reduced risks associated with the collection of expenses, or the dispersal of revenues, in deferred accounts after amortization. A shorter term Treasury rate should be applied, Staff argues, because deferred accounts are typically amortized for a period of time that does not exceed two years. Nevertheless, Staff acknowledges that a utility may not always be able to, or want to, match the terms of an amortization period with the term of a Treasury rate. Staff observes, for example, that although a deferred account may be amortized over one year, a three-year or five-year Treasury rate may be lower, at the time, than the one-year Treasury rate. In such cases, Staff realizes that it would be prudent for a utility to borrow on a basis longer than one year. Consequently, Staff recommends application of the Blended Treasury Rate in order to recognize an average financing period. When a deferral is amortized over a period of time longer than five years, Staff indicates that a utility should ask the Commission to apply a different rate.

In reply comments, Staff asserts that it would be inappropriate to use the utilities' embedded cost of debt[1] as the amortization interest rate because there is no correlation between this historic cost and forward-looking deferred accounts. Staff observes that the utilities' embedded cost of debt includes terms of debt far longer than most amortization periods, with the average maturity of the embedded cost of debt being 22 and 21 years for PGE and Pacific Power, respectively. Staff notes, as well, that the embedded cost of debt includes the cost of long-term debt that was issued many years, or even decades in the past. Staff asserts: "[t]he embedded cost of a utility's debt is not intended to and will likely never match the forward-looking cost of funding a 'short-term, fixed (as opposed to forecast) investment that will be recouped.'"[2]

2. *ICNU*

In opening comments, ICNU supports Staff's proposal, as originally made in Phase II of this docket, to use an *average* of the one-, three- and five-year Treasury rates as the interest rate on amortized deferred accounts. ICNU takes the position that an average rate would be fair and balanced, with an amount amortized over a one-year period earning more than a one-year treasury rate, while an amount amortized over five years would earn less than a five-year treasury rate. In closing comments, ICNU supports Staff's Blended Treasury Rate, arguing that neither Pacific Power nor PGE provide compelling arguments for the application of a different rate.

3. *Pacific Power and Idaho Power*

In its individual opening comments (not yet joined by Idaho Power), Pacific Power reiterates a point, made in previous phases of this docket, that deferred accounts are currently funded with debt and equity, not with discrete issuances of short-term debt instruments. Pacific Power asserts that this financing approach applies to deferred accounts both prior to and during amortization. Pacific Power continues to take the position that a utility's AROR should be applied to deferrals during amortization. If the Commission continues to deem it appropriate to apply a different interest rate to amortized deferred accounts, however, Pacific Power recommends that the Commission apply the utility's cost of long-term debt.

Pacific Power asserts that other possible rates, such as the cost of a utility's short-term debt, would not provide an appropriate return on amortized deferred accounts. Pacific Power explains that short-term debt rates are volatile and would, therefore, require

[1] Staff identifies the embedded cost of debt for PGE and Pacific Power, established in the last general rate case for each, as 6.48 and 6.32 percent, respectively.
[2] Staff Reply Comments, p. 4.

constant updating. Pacific Power also asserts that customers already get the benefit of short-term debt rates, as applied to Allowance for Funds Used During Construction (AFUDC) and Construction Work In Progress (CWIP) monies, and that these accounts would need to be offset if short-term debt rates were also applied to deferred accounts.

Pacific Power and Idaho Power filed joint reply comments. These joint reply comments assert that Staff is incorrect that the Blended Treasury Rate is reflective of the financial risks associated with amortized deferred accounts. Pacific Power and Idaho Power explain that Treasury rates in general, regardless of their term, reflect zero risk because they are guaranteed by the United States Government. In contrast, Pacific Power and Idaho Power argue that amortized deferred accounts carry financial risk, to the extent that any underlying debt is serviced by a utility's earnings that may fluctuate with the weather and power costs, among other risks. Moreover, Pacific Power and Idaho Power observe the Commission may at any time, pursuant to ORS 756.568, amend or rescind an amortization order.

Pacific Power and Idaho Power also assert that Staff's Blended Treasury Rate is not consistent with the costs that utilities would incur to finance deferrals through the amortization period. They indicate that Staff's position is based on the faulty assumption that utilities finance each deferral account separately. In any case, even if the utilities did finance each deferral separately, Pacific Power and Idaho Power argue that financing as low as the Blended Treasury Rate would not be available.

Pacific Power and Idaho Power urge the Commission to adopt a rate of return on amortized deferred accounts that reflects actual utility practice, and recommend application of the utilities' cost of long-term debt. They state that this rate is based on each utility's actual financing cost and has been rigorously analyzed before approval by the Commission.

4. *PGE*

PGE also relies on comments made in the earlier phases to argue that any new rate of return on amortized deferred amounts should be based on a utility's long-term debt financing arrangements. PGE asserts that even after a deferred account begins amortization, recovery may take several years.[3] PGE further argues that the use of a long-term debt rate matches the time period over which utilities actually finance and recover amortized deferrals, thereby keeping the utility whole with regard to its costs. PGE also states that a long-term rate, being forecast in a utility's general rate case and calculated annually, is verifiable and transparent.

In reply comments, PGE discussed why it believes Staff's Blended Treasury Rate would be inappropriate as an interest rate on amortized deferred accounts. PGE asserts that the financial community considers a Treasury-based rate to reflect the interest

[3] PGE filed a list of all deferred accounts for PGE and Pacific Power as Exhibit A to PGE's Opening Comments.

appropriate to a risk-free asset—i.e., one with an almost zero percent probability of default. PGE argues that Staff's proposed Blended Treasury Rate would not reflect the risk associated with amortized deferred accounts. Moreover, PGE states that a prudent utility could not finance an amortized deferred account at a Treasury rate.

Although PGE concedes that the risk associated with a deferred account after the Commission authorizes amortization is lowered, PGE contends that it is not eliminated. PGE contrasts an amortized deferred account with conservation program expenditures. PGE indicates that a utility may finance conversation program expenditures by issuing a bond because recovery is guaranteed by statute (ORS 757.455 and 757.460). As the Commission could suspend, rescind, or amend an amortization order at any time pursuant to ORS 756.568, however, PGE asserts that amortized deferred accounts are not similarly risk free. Even the bonds that PGE issued to finance conservation program expenditures had an interest rate higher, by approximately 75 to 80 basis points, than comparable term Treasury rates, states PGE.[4]

PGE asserts that its actual financing cost for short-term debt is approximately 110 basis points higher than Staff's Blended Treasury Rate would be. In recent years, PGE indicates that its short-term financing has taken the form of commercial paper payable from one to 270 days (one to 60 days is typical). Using Staff's data, PGE calculated that the weighted average interest rate for commercial paper issued on PGE's behalf in December 2006 was 5.48 percent, while Staff's Blended Treasury Rate rendered a 4.36 percent rate. Similarly, PGE calculated that the weighted average interest rate for commercial paper issued on PGE's behalf in August 2007 was
5.85 percent, while Staff's Blended Treasury Rate rendered a 4.75 percent rate. PGE further opines that this comparison underestimates the likely actual spread between actual financing costs because amortization occurs over a longer time span than 270 days.

If the Commission rejects application of a long-term interest rate to amortized deferred accounts, as PGE proposes, in favor of Staff's proposed Blended Treasury rate, then PGE recommends that the Commission add a spread of at least 150 basis points to reflect what are likely to be the actual financing costs.

5. *NW Natural*

NW Natural does not object to a short-term borrowing interest rate being applied to deferred accounts that will be amortized for a period of one year or less, but NW Natural does object to the Blended Treasury Rate. NW Natural observes that it would be more appropriate to use a benchmark corporate borrowing rate rather than a Treasury-based rate, due to the credit risk that is associated with a utility. Consequently, NW Natural recommends using the average three-month London Inter-Bank Offered Rate (LIBOR) published in the Wall Street Journal over the 30-day period immediately preceding the

[4] PGE offers this information on an informational-only basis. If the Commission determines that factual evidence is needed, as PGE recommends, then PGE is prepared to introduce evidence supporting this information.

amortization period. NW Natural asserts that this rate would be more reflective of a utility's borrowing cost than a Treasury-based rate, particularly since it will be established immediately prior to the amortization period.

B. *How Should Post-Amortization Rates of Return Be Established?*

1. *Staff*

Staff proposes that the Blended Treasury rate be established at the beginning of each calendar year, to apply to all deferred amounts amortized during that calendar year—unless the Commission ordered an exception to be made. Staff indicates that it would calculate the Blended Treasury Rate by no later than January 10 of each year. Staff states that the annual Blended Treasury Rate would be based on the Treasury rates published on the last two Fridays in the preceding December. Staff asserts that this approach is administratively simple and results in a rate that is both verifiable and transparent.

2. *ICNU*

ICNU asserts that the interest rate for amortized deferred accounts should be calculated on an annual basis.

3. *Pacific Power*

Pacific Power recommends that once the amortization of a deferred account begins, the long-term cost of debt authorized by the Commission in a utility's last general rate case be applied. Alternatively, Pacific Power indicates that the Commission could use a utility's actual long-term cost of debt, as reported in the utility's annual results of operations (ROO) filing. Pacific Power indicates this approach would add administrative and procedural complexity to the process, however, since the actual cost of long-term debt is not filed until April 1 of each year. Pacific Power assumes that a utility's long-term cost of debt would require Commission acknowledgment prior to being applied to amortized balances.

4. *PGE*

A post-amortization rate of return based on the long-term cost of debt can be determined in two equally suitable ways, PGE asserts. A forecasted utility's long-term cost of debt, as authorized in a utility's general rate case, can be used. This rate would be in effect until a utility's next general rate case. Alternatively, a utility's actual long-term cost of debt, as determined by the utility's annual ROO filing, could be used. This rate, PGE states, would be based on average debt from a utility's actual financial statements during the preceding year. PGE indicates that the interest rate could be updated annually, as of the beginning of the year in which the ROO is filed, or as of the day the ROO is filed.

5. *NW Natural*

NW Natural suggests using the average 3-month LIBOR rate, as published in the Wall Street Journal over the 30-day period immediately preceding an amortization period. If the Commission adopts Staff's Blended Treasury Rate, however, NW Natural indicates that it should not be based on the last two Fridays in December, as Fridays in short-term credit markets are particularly volatile.

C. *Are There Exceptions that Should Apply to Idaho Power?*

In the first phase of this docket, Idaho Power indicated that its deferral situation is unique in Oregon. As summarized in Order No. 06-507:

> Idaho Power asserts that its deferral situation in Oregon is unique, as compared to other utilities that serve customers in Oregon. Idaho Power explains that due to a relatively small number of customers in Oregon (approximately 18,000) and relatively low revenues (Idaho Power's 2005 normalized revenue in Oregon was $26,844,777), but high existing deferral account amounts ($11,000,000) together with the statutory amortization cap (pursuant to ORS 757.259), Idaho Power is unable to recover deferred costs in a short amount of time. Idaho Power asserts that it will take approximately three more years to recover all deferred revenues accrued prior to 2005, while it will take approximately six years to recover deferred excess power supply expenses incurred in 2005. These extended periods of time invalidate the proposed application of a short-term interest rate to amortized deferred accounts, Idaho Power argues. Idaho Power asserts that the application of a rate of return based on a utility's short-term interest rate would be appropriate only if amortization is guaranteed to be completed in less than one year.[5]

The Commission specifically directed, in Order No. 06-507, that these issues be addressed in Phase III of this docket.[6]

1. *Staff*

Staff does not recommend that specific exceptions be made for Idaho Power. Staff indicates, however, that Idaho Power may ask the Commission to apply a different interest rate when an amortization period for a deferral will exceed three years.

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[5] Order No. 06-507 at 4.
[6] *Id.* at 6.

2. *ICNU*

ICNU takes no position on whether a different interest rate should apply to amortization of Idaho Power's deferred accounts. Should the Commission treat Idaho Power differently, however, ICNU requests that the Commission make it clear that the differential treatment is limited to Idaho Power's specific circumstances.

3. *Pacific Power*

Pacific Power raises no objections to continuing the current treatment of Idaho Power's deferred accounts.

4. *Pacific Power and Idaho Power*

In reply comments, Pacific Power and Idaho Power jointly support Staff's proposal that Idaho Power be able to use a general exception to apply for a different interest rate to be applied to amortizations of deferred accounts that will last longer than three years. They urge the Commission to adopt Staff's recommendation to provide an "opportunity for all utilities to request a rate other than that adopted in this docket, in the event that such rate would not 'make the utility whole.'"[7]

5. *PGE*

PGE recognizes that the recovery period for certain Idaho Power deferrals in amortization is long, but observes that long recovery periods are not unique to Idaho Power. For example, PGE notes that many deferrals for both PGE and Pacific Power have been amortized over four and five years. Nevertheless, PGE does not take a position as to whether an exception should be made for Idaho Power when applying the new post-amortization rate.

D. *How Should the Rate of Return Be Set for Deferred Accounts that Are Currently Accruing Prospective Deferrals?*

In Order No. 06-507, the Commission directed "Staff and parties to address how a new rate of return on amortized deferred accounts should be applied to deferred accounts that are currently accruing prospective deferrals."[8] Staff and parties interpreted the question to ask whether a new interest rate should be applied to a deferred account in amortization when the account contains both amortized and unamortized funds—in other words, when a deferred account is only partially amortized with funds still accruing for future amortization.

[7] Reply Comments of Pacific Power and Idaho Power, p. 5, quoting Staff Opening Comments, Phase III, p. 3.
[8] Order No. 06-507 at 6.

1. *Staff*

Staff interprets this question to concern deferred amounts for which a utility has received an order to amortize, but only in part. Staff gives the example of the Commission's authorization to Pacific Power to amortize a certain portion of deferred excess power costs incurred during the Western power crisis, before a determination of the prudency of those costs. Staff asserts that if a similar circumstance arises in the future, the Commission should require a utility to apply the new interest rate to portions of the deferred funds that are approved for amortization, while the AROR would apply to the accruing funds until they are amortized. In reply comments, Staff reiterates that the Blended Treasury Rate should be applied to all amounts approved for amortization, thereby disagreeing with PGE's approach for balancing account deferrals.

2. *ICNU*

ICNU takes the position that any new rate of return on amortized deferred accounts should be applied to all deferred accounts, including accounts that are currently accruing prospective deferrals. For accounts already in amortization, ICNU suggests that the new interest rate be applied to the balance as of the date of the order establishing the new rate.

3. *Pacific Power*

Pacific Power recommends that deferred accounts with an anticipated one-time amortization be tracked separately from accounts that are expected to continually accrue deferrals. For the latter type of accounts, Pacific Power suggests that the AROR be applied to an account during deferral, and that the long-term cost of debt (Pacific Power's recommended amortization interest rate) be applied during the amortization period.

4. *PGE*

Typically, PGE states, deferred costs or revenues are fully recorded and then amortized, during which time the deferred funds are collected from, or refunded to, customers. For such deferrals, a change in the return of rate earned on the deferred amount between recording and amortization will be administratively and mathematically simple, PGE asserts. In some cases, however, a deferred account may be ongoing, with a certain amount in the account amortized, while the account continues to accrue deferred funds, PGE states. PGE identifies two types of such deferrals.

In one type of ongoing deferral, PGE explains, when an amortization order is entered, past accruals are amortized, while future accruals continue to be deferred for future amortization. Power costs associated with property sales have been treated in this manner, PGE asserts. PGE proposes two approaches to handling ongoing deferral accounts: (1) Treat the balancing account components differently by applying the new amortization interest rate to the amount already approved for amortization, while applying the utility's AROR to the amount still being accrued; or (2) Apply a weighted average interest rate to the entire balance, which is based on the absolute value of the current month's deferral and amortization amounts. PGE notes that this approach could potentially result in a different interest rate each month.

PGE identifies the second type of ongoing deferral as a "balancing account deferral," which has the goal of achieving a zero balance to recover or refund past deferrals as well as expected future deferrals. The balancing account established by PGE to handle Senate Bill 1149 deferred costs is an example, PGE indicates. "In the second type of deferral," PGE states, "amounts deferred during the amortization period are recovered or refunded in the same period such that the balance is zero at the end of the period."[9] PGE proposes that a utility's AROR be applied to balancing account deferrals. If the Commission determines not to do so, then PGE proposes that the Commission use one of the two alternatives recommended by PGE for other ongoing deferrals.

E. *How Should the Rate of Return Be Set for Accounts under the Provisions of the 1980 Northwest Power Act?*

In Order No. 06-507, the Commission also directed "Staff and parties to address how a new rate of return on amortized deferred accounts should be applied to accounts under the provisions of the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (1980 Act)."[10] The 1980 Act directed the Bonneville Power Administration (BPA) to share federal hydropower benefits with residential and small-farm customers of investor-utilities. To implement this "Residential Exchange" program, the utilities keep balancing accounts that accrue interest. The question posed is whether the interest rate on these accounts should be the same as that applied to deferred accounts.

1. *Staff*

Staff recommends applying the new interest rate to any accounts that exist under the 1980 Act. In reply comments, Staff rebuts Pacific Power's arguments to the contrary. Staff asserts that the Commission has full authority to determine the interest rate applied to these deferrals. It does not matter that Pacific Power received authorization in 1981 for the current interest rate on these accounts, Staff states, as the Commission has authority to modify the rate at any time. Staff acknowledges that the rate applied to accounts under the 1980 Act will likely be different than applied to deferrals by Pacific Power in other states, but does not discern this differentiation to be a problem.

2. *Pacific Power*

Pacific Power indicates that its BPA balancing account, established under the provisions of the 1980 Act, is unique among Pacific Power's deferred accounts. Pacific Power asserts that the treatment of this account should not be altered. Indeed, Pacific Power questions whether the Commission has the authority to change the treatment of this account.

[9] Opening Comments, Phase III, p. 5.
[10] Order No. 06-507 at 6.

Pacific Power observes: "The Oregon Department of Justice advised Commission Staff a number of years ago that although the deferral of Regional Power Act ("RPA") benefits is described under ORS 757.259, the requirements of section 5(c) of the RPA makes authorization under state law unnecessary because federal law preempts state law."[11]

Pacific Power explains that the 1980 Act requires cost benefits of the Residential Exchange program to be directly passed to ratepayers. Pacific Power indicates that monthly carrying charges are calculated and applied to Pacific Power's BPA balancing account only when there is a credit balance. Pacific Power uses the short term rate authorized in a September 29, 1981, letter to Pacific Power from William Kramer, then Assistant Commissioner, Utility Program. The letter, in pertinent part, states: "Interest should be charged or credited on monthly average balancing account amounts, using the average cost of obtaining funds under the Company's [Pacific Power's] revolving credit terms for the month."[12] Pacific Power states that the rate presently used is tied to the primary investment account used by the Company to invest excess cash.[13] Pacific Power also indicates that the same rate is used for all three states in which Pacific Power receives benefits from BPA. Changing the rate in Oregon would be administratively cumbersome, Pacific Power observes.

3. *Pacific Power and Idaho Power*

In joint reply comments, Pacific Power and Idaho Power reiterate that federal law governs administration of the exchange program and preempts state law. Pacific Power and Idaho Power express concern that deferred accounting treatment of funds under the 1980 Act may conflict with federal requirements. Pacific Power and Idaho Power also observe that neither utility has ever applied for or received deferred accounting for funds under the 1980 Act.

4. *PGE*

PGE differentiates the BPA residential exchange balancing account from all other deferred accounts, and asserts that the interest rate applied to this account should not be changed. As a matter of law, PGE explains that a utility must pass through all BPA residential exchange benefits through the BPA residential exchange balancing account—in other words, "PGE simply serves as the conduit for conveying the benefits of the BPA system to its customers."[14] Although PGE takes the position that the BPA residential exchange balance should continue to accrue interest at PGE's authorized cost of capital, if the Commission decides to make this balance subject to a new interest rate, PGE argues that the Commission should apply an interest rate that is based on PGE's long-term cost of debt.

[11] Pacific Power Initial Comments Phase III, UM 1147, p. 5, citing OPUC Interoffice Correspondence, dated October 2, 2003, p. 1.
[12] Pacific Power Initial Comments, Phase III, pp. 5-6.
[13] Pacific Power indicates that the current rate is tied to the Fidelity Money Market Fund No. 59.
[14] PGE Opening Comments at 5.

5. *ICNU*

ICNU takes the general position that any new rate of return on amortized deferred accounts should be applied to all deferred accounts, including accounts under the 1980 Act.

F. *Should there be a Materiality Threshold under which the Post-Amortization Return Is Not Reset?*

The question was posed in this docket whether some deferred account balances are too small to justify the application of an interest rate other than the utility's rate of return.

1. *Staff*

Staff does not recommend using a materiality threshold to apply the new amortization interest rate. Staff takes the position that if expenses (or surplus revenues) are great enough to warrant deferral, then application of the amortization interest rate is appropriate.

2. *ICNU*

ICNU opposes the application of a materiality threshold. ICNU states, "[a] utility should not be unproportionately compensated for the risk of disallowance, no matter how small the amount."[15] ICNU also raises concerns that debate about implementation of a materiality threshold would involve unnecessary complication and controversy.

3. *PGE*

A new interest rate should not be applied to a deferred account in deferral if the administrative cost of the change will be greater than the difference in interest resulting from the new rate, PGE recommends. The difference in interest resulting from application of PGE's long-term debt cost instead of PGE's AROR is approximately 150 basis points. For example, PGE posits, a deferral account with a balance of one million dollars would accrue approximately $15,000 less in interest over one year if PGE's long-term debt cost was applied as the interest rate instead of PGE's AROR. PGE proposes that deferral balances under one-eighth of one percent (0.0125 percent) of a utility's gross retail operating revenues be deemed to fall below a materiality threshold for application of a new post-amortization interest rate. PGE states, "[b]ased on PGE's 2006 ROO, the proposed materiality threshold for deferral balances would be approximately $1.7 million, with an average balance of approximately $850,000 for a one-year amortization."[16]

[15] Opening Comments of ICNU, p. 5.
[16] PGE Opening Comments (Phase III), p. 6.

4. *Pacific Power*

In opening comments, Pacific Power asserts that some deferred account balances are too small to warrant the administrative effort required to change the rate of return applied to them. Consequently, Pacific Power recommends that the Commission impose a materiality threshold. Pacific Power suggests that the Commission establish the same threshold as used to determine the justness and reasonableness of advertising expenses for energy or conversation. This threshold is 0.125 percent or less of gross retail operating revenues in a general rate case proceeding, equating to approximately $1.1 million for Pacific Power, based on its last general rate case, Docket No. UE 179.

G. Should the New Post-Amortization Rate of Return Be Applied to Existing Deferrals, or Should It Be Applied on a Prospective Basis?

This question addresses whether a newly-adopted interest rate on amortized deferral account should be: 1) applied prospectively basis only—i.e., only to deferred accounts that are amortized after an order adopting a newly adopted interest rate; or 2) applied prospectively and retrospectively—i.e., to deferred accounts already in amortization.

1. *Staff*

Staff recommends applying the new amortization interest rate to both existing and prospective deferrals. Staff observes that applying the new interest rate to existing deferred accounts in amortization is no different than the Commission's current practice of applying a new AROR when it is modified in a general rate case. In any case, Staff asserts that barring constitutional limits, the legislature or an administrative agency may impose special conditions, including retroactive application that affects economic interests, upon enactments.

2. *ICNU*

ICNU takes the general position that any new rate of return on amortized deferred accounts should be applied to all deferred accounts, including accounts that are currently being amortized. For accounts already in amortization, ICNU suggests that the new interest rate be applied to the balance as of the date of the order establishing the new rate.

3. *Pacific Power and Idaho Power*

In reply comments, Pacific Power and Idaho Power observe that Staff did not adequately support its recommendation that an order regarding a new interest rate for amortized deferred accounts be applied retrospectively. They argue that "there is no overwhelming policy reason why the Commission should upset the legitimate expectation of the parties that the interest rate set at the time of amortization should prevail." The Joint Utilities also interpret the Commission's direction in Order No. 07-119, that the interest rate adopted in this third phase of Docket UM 1147 be applied to the approved amortization in that order, as implicit recognition that a utility should have notice of the new interest rate.

4. *PGE*

PGE indicates that a deferred account may be: 1) in amortization; 2) authorized for amortization which has not begun; or 3) not yet authorized for amortization. PGE argues that any new post-amortization interest rate should be applied only to deferrals awaiting a future amortization order. PGE states that this approach would be "in keeping with the general rule that agency orders take effect on a prospective basis only."[17]

IV. RESOLUTION

The utilities continue to assert, in this phase of the proceeding, that they do not separately fund amortized deferred accounts. We acknowledged, in Order No. 06-507, that utilities do not presently fund amortized deferred accounts in a separate manner. We also indicated, however, that we were unaware of barriers to utilities separately funding amortized deferred accounts on a going-forward basis.[18] In this phase of the proceedings, the utilities again did not persuade us otherwise. Thus, our goal in this phase of the proceeding is to determine what rate of interest on amortized deferred accounts would best reflect the short-term, fixed nature of amortized deferred accounts. We will not revisit the decision, made in Order No. 06-507, that a utility's AROR should not be applied to amortized deferred accounts.

Unfortunately, the utilities did not adequately discuss the full range of options for short-term financing that may be available to separately fund amortized deferred accounts. Instead, Pacific Power, Idaho Power and PGE recommend that we apply a long-term interest rate to amortized deferred accounts. Only NW Natural suggests the application of a shorter-term interest rate to amortized deferred accounts. NW Natural recommends that the amortized deferred account interest rate be LIBOR-based, but provides insufficient information about the nature and availability of this rate.[19]

Some of the utilities assert that it is unlikely that amortized deferred accounts could be separately financed at rates as low as the Blended Treasury Rate. Again, however, the guidance from these utilities was insufficient regarding the rates that amortized deferred accounts could actually be financed at. PGE offers some calculations that compare the Blended Treasury Rate with PGE's recent experience with short-term financing,[20] but PGE opines that factual evidence would be needed to develop an interest rate for amortized deferred accounts that is based on short-term lending data. Although PGE estimates the

[17] *Id*.
[18] Moreover, we identified examples of rates other than a utility's AROR being applied to amortized deferred accounts in other states. *See* Order No. 06-507, fn. 2.
[19] We also take official notice that doubts have recently arisen about the reliability of LIBOR. *See e.g.*, "Bankers Cast Doubt on Key Rate Amid Crisis," Wall Street Journal, April 16, 2008, Vol. CCLI, No. 89, front page. Any party may object to a fact noticed within 15 days of this order. *See* OAR 860-014-0050(2).
[20] PGE asserts that the company's recent short-term financing has been based on commercial paper, payable from one to 270 days, but typically issued from one to 60 days. *See* PGE's Reply Comments (Phase III), p. 4.

difference to be 110 basis points, PGE suggests adding 150 basis points to the Blended Treasury Rate to account for the likely costs to finance amortized deferred accounts.

In a nutshell, Pacific Power and Idaho Power urge us to base any interest rate for amortized deferred accounts on actual utility financing experience, while PGE asserts that we need evidence regarding utility financing experience to determine the proper interest rate to be applied. We agree that under ideal circumstances, any new interest rate would be based on factual evidence related to the utilities' actual experience in securing financing for amortized deferred accounts. As the utilities do not presently finance amortized deferred accounts on a separate basis, however, such evidence does not yet exist. Thus, we find ourselves in the confounding position of needing actual experience and data, but not being able to get it until the utilities have reason to separately finance amortized deferred accounts.

Under the circumstances, we find it appropriate to adopt a new interest rate for all amortized deferred accounts on a policy basis, with the understanding that the rate can be adjusted in the future, as actual experience and data better to inform all concerned. We adopt the Blended Treasury Rate, finding that it appropriately reflects the financing periods and financial risks associated with deferred accounts in amortization, but we make two modifications. Based upon concerns that Treasury rates are lower than any financing rates that would be available to non-government entities, we add 100 basis points to the Blended Treasury Rate. We do so in recognition that financing is typically based on, but not necessarily equal to, Treasury rates. Additionally, in deference to the practical experience of NW Natural regarding the volatility of financial markets on Friday, we adopt Staff's proposed methodology to calculate the Blended Treasury Rate, but with a modification. The Blended Treasury Rate shall be calculated by the tenth day of January each year, based on Treasury rates published on the first two Thursdays, as opposed to the last two Fridays, in the preceding December. The Blended Treasury Rate in effect when the Commission authorizes amortization of a deferred account shall be applied to the deferred account beginning on the date of the Commission's approval of the amortization and continuing throughout the entire period of amortization.

We find that the modified Blended Treasury Rate adopted herein should be applied as of sixty calendar days after the date of this order to all deferred accounts in amortization now or in the future, including the balances in existing deferred accounts already in amortization, whether such accounts are accruing prospective deferrals or not. We agree with Staff that applying the new interest rate to any balances in existing deferred accounts already in amortization is not theoretically much different than the current practice of applying a new AROR to balances in deferred accounts already in amortization when a utility's AROR is modified in a general rate case. The principle is the same: an authorized interest rate for amortized deferred accounts may be adjusted at any time. We are not limited to prospective adjustment only.

We also do not find it necessary to impose a materiality threshold to determine what deferred accounts the modified Blended Treasury Rate should be applied to. We observe, again, a materiality threshold has not been applied in the past when a utility's AROR has been modified.

Staff proposes that a utility be allowed to request the application of an interest rate different than the rate adopted in this order in the event that an amortization period for a deferral will exceed three years. We adopt this recommendation, but expand upon it. Staff, or any utility, may argue that any circumstances or evidence warrant the application of a different interest rate to the amortization of a deferred account.

Indeed, for existing amortized deferrals, Staff or any party may immediately apply for an exception to the application of the new rate. For example, we observe that it may be appropriate to continue to apply the interest rate specified in Order No. 04-289 for the account established in Docket No. UI 195.[21] We remain unconvinced that it is inappropriate to apply the modified Blended Treasury Rate to the balancing accounts established under the 1980 Northwest Power Act, but we would consider exception filings providing additional information and arguments. As of 60-calendar days after the date of this order, the modified Blended Treasury Rate shall be applied to all deferred accounts for which no exception has been filed for. We direct Staff to calculate the Blended Treasury Rate using the methodology adopted herein, and present it to us for our consideration at a public meeting, within this period of 60-calendar days after the date of this order.

For future deferrals, we anticipate that a request for an exception would occur at the same time as a request for amortization. We expect that evidence regarding actual financing options would be made available then. If numerous exceptions are requested over time, or if other experience indicates that we should revisit the modified Blended Treasury Rate, we will initiate a future investigation.

[21] In Order No. 02-280, we approved a stipulation that set forth a specific interest rate to be charged by PGE for a loan to an affiliate. We again approved that interest rate, in Order No. 03-453, when the loan was an extended. In Order No. 04-289, when the loan was extended once more, we applied a new specific interest rate.

ORDER

IT IS ORDERED that the new interest rate and the guidelines for applying this rate, as set forth in this order, shall apply to all balances in existing and future deferred accounts, for which an exception has not been applied for and received. The new interest rate shall apply to balances in existing accounts as of 60 calendar days after the date of this order.

Made, entered, and effective MAY 22 2008.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

PUBLIC UTILITY COMMISSION OF OREGON

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 by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.