

[Service Date December 9, 2002]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In re the Petition of)	DOCKET NO. UE-020417
)	
PACIFICORP d/b/a PACIFIC)	FIFTH SUPPLEMENTAL ORDER
POWER & LIGHT COMPANY)	
)	ORDER AND NOTICE
For an Accounting Order)	SUSPENDING TARIFF FILING
Authorizing Deferral of Excess Net)	
Power Costs.)	
.....)	

MEMORANDUM

1 **PROCEEDINGS:** This proceeding concerns a Petition filed by PacifiCorp, d/b/a Pacific Power and Light Company (“PacifiCorp” or the “Company”) on April 5, 2002. The Company requests an accounting order that would authorize it to establish a deferred cost account to track asserted excess power costs PacifiCorp expects to incur during periods commencing June 1, 2002. PacifiCorp requests that it be allowed to maintain the deferred account until May 31, 2003, or, if earlier, to “such time as the Commission approves a Power Cost Adjustment Mechanism, or PCAM, for the Company’s Washington customers, or some similar form of limited rate relief to address extraordinary power costs.” *Petition at 1.* PacifiCorp filed as part of its case-in-chief on October 18, 2002, its proposal to recover any excess power costs the Commission may authorize for deferral accounting treatment.

2 **PARTIES:** James M. Van Nostrand, Stoel Rives, Seattle, Washington, represents PacifiCorp. Melinda Davison, Davison VanCleve, Portland, Oregon, represents ICNU. Robert Cromwell, Assistant Attorney General, Seattle, Washington, represents the Washington State Attorney General’s Office of Public Counsel. Robert Cedarbaum, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory Staff.

- 3 **SCOPE OF PROCEEDING:** The parties expressed different views concerning the scope of this proceeding during the first prehearing conference and in briefs filed in response to the Commission's Second Supplemental Order. PacifiCorp argued that this proceeding concerns only the question of whether it should be permitted to establish a deferral account with the related questions of whether and, if so, to what extent it should be permitted to recover through rates any amounts booked to the deferral account put off for consideration in a separate proceeding following a filing the Company intends to make in the near term. Staff, Public Counsel, and ICNU argued that the questions of whether the Commission should authorize a deferral account to track asserted excess power costs and whether and how recovery should be allowed are inseparable.
- 4 The Commission entered its Third Supplemental Order in this proceeding on September 27, 2002. The Third Supplemental Order, among other things, defined the scope of this proceeding to be limited to consideration of the relief sought, an accounting order, as requested by the Company. However, the Commission also recognized the importance of considering PacifiCorp's Petition in the context of a proposed recovery mechanism and emphasized that PacifiCorp should file such a proposal at an early date.
- 5 PacifiCorp filed its direct case, including written testimony and exhibits, on October 18, 2002. The Company's filing included tariff sheets that reflect PacifiCorp's proposal for rate recovery of any excess net power costs authorized for deferral in this proceeding. PacifiCorp simultaneously filed identical tariff sheets in Advice No. 02-004, which the Commission docketed as No. UE-021337. In its Advice filing, the Company requested an effective date of January 1, 2003.
- 6 On November 12, 2002, PacifiCorp withdrew Advice No. 02-004 based on its understanding from discussions with Commission Staff that this separate filing was not necessary given that the Commission would consider the same proposed tariff sheets in this proceeding. PacifiCorp stated in its withdrawal letter that by withdrawing the tariff filing the necessity for the Commission to consider consolidating the two matters could be avoided.

- 7 The Commission finds that it is appropriate to consider PacifiCorp's proposed recovery mechanism for any power costs that the Commission may authorize PacifiCorp to include in a deferral account in the context of this proceeding. The procedural posture of the matter is the same as if PacifiCorp had not withdrawn Advice No. 02-004 and the Commission had consolidated Docket No. UE-021337 with this Docket No. UE-020417. The substantive scope of the case is broadened to include consideration of PacifiCorp's proposed recovery of any excess power costs the Commission authorizes the Company to book to a deferral account.
- 8 **SUSPENSION:** Given the circumstances described above, the Commission finds that it should clearly establish, by this Order, the status of PacifiCorp's tariff filing and the burden of proof in this proceeding. RCW 80.04.130 provides in relevant parts:

(1) Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective. . .

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

- 9 Thus, the Commission, on its own motion, may suspend the tariff sheets filed as a part of PacifiCorp's case-in-chief on October 18, 2002. The Commission finds that if PacifiCorp's accounting petition is granted, and if its proposed recovery of any deferred costs were approved, the result would be to increase rates and charges for service provided by the Company. Such increases may adversely affect the public's rights and interests. PacifiCorp has not shown that the increases would result in rates that are fair, just, and reasonable.
- 10 The subject tariff sheets show an effective date of January 1, 2003. The Commission concludes it should suspend PacifiCorp's tariff filing from that date for a period of up to ten months, pending hearing, in accordance with RCW 80.04.130. PacifiCorp bears the burden of proof to show both that it should be allowed to defer a portion of its power costs and that its proposed recovery of any such deferred costs is just and reasonable.

ORDER

THE COMMISSION ORDERS That:

- 11 (1) The tariff revisions filed by PacifiCorp as part of its case-in-chief in this proceeding are suspended.
- 12 (2) The Commission will conduct hearings in this matter in accordance with the procedural schedule previously established in this docket by the Commission's Second Supplemental Order and Fourth Supplemental Order.
- 13 (3) PacifiCorp must not change or alter the tariff revisions filed in this docket during the suspension period, unless authorized by the Commission.
- 14 (4) The Commission will conduct an investigation of PacifiCorp's books, accounts, practices, activities, property and operations, as necessary to its inquiry in this proceeding consistent with RCW 80.01.040.

- 15 (5) PacifiCorp may be required to pay the expenses reasonably attributed and allocated to the Commission's investigation consistent with RCW 80.20.020.

DATED at Olympia, Washington and effective this ____ day of December 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner