

Exhibit No. ____ (DPK-7)
Docket No. UE-050684
Witness: Danny P. Kermode

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

**PACIFICORP, d/b/a Pacific Power &
Light Company, Respondent.**

DOCKET NO. UE-050684

**EXHIBIT TO
TESTIMONY OF**

Danny P. Kermode

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

RE: PACIFICORP GENERAL RATE CASE

*Excerpt from the Commission's Fourth Supplemental Order in WUTC v. Pacific Power &
Light Co., Cause Nos. U-82-12 and U-82-35 (February 2, 1983), pages 1, 18 and 19*

November 3, 2005

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

PACIFIC POWER & LIGHT COMPANY

Respondent.

CAUSE NO. U-82-12

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

vs.

PACIFIC POWER & LIGHT COMPANY

Respondent.

CAUSE NO. U-82-35

FOURTH
SUPPLEMENTAL ORDER

NATURE OF PROCEEDING: Pacific Power & Light Company, called respondent, company or Pacific in this order, filed revised tariff sheets on March 17, 1982, proposing a rate increase, before calculation of exchange credit under the Pacific Northwest Electric Power Planning and Conservation Act (Regional Power Act), of \$39,466,000. The tariff sheets were suspended and are considered in Cause No. U-82-12. On June 25, 1982, the company sought the authority from this Commission to recover its costs in two terminated nuclear generation projects, the Pebble Springs Nuclear Project initially planned for siting in Oregon and the WNP-5 nuclear project of the Washington Public Power Supply System, to be sited in Washington. This request, docketed as Cause No. U-82-35, included revised tariffs requesting an additional annual increase of \$5,046,000 to allow amortization of the Pebble Springs investment and a proposal that recorded gain from a 1982 finance arrangement be used to offset its investment in WNP-5. The company stated that without this offset, total annual revenues requested for amortization would be \$10,594,000 for a five-year period.

The Commission suspended and then held hearings upon the requests. This order is the Commission's decision as to all relevant matters raised in the course of Cause Nos. U-82-12 and U-82-35 which have not been previously decided.

HEARINGS: Hearing on this matter was held before Chairman Robert W. Bratton, Commissioner Robert C. Bailey,^{1/} Commissioner Mary D. Hall and presiding officer C. Robert Wallis, pursuant to due and proper notice to all interested parties. Hearings

^{1/}The term of office of Commissioner Bailey expired prior to the Commission's deliberations and order herein.

The Commission staff, in effect, suggests that the Commission not take into account economic conditions, but normalize for available hydro and for test period temperature. This position is rejected, and that of the company is accepted. The company is more realistic, the Commission believes, in assessing the economic conditions to be experienced in its sales market during the period when the rates are expected to be in effect. In the Commission's judgment, the general accuracy of the company's assessment is not negated by its single firm power contract entered in the State of California late in 1982. The company's level of special sales and power costs is therefore accepted.

(2) Malin-Midpoint

During 1981, the company placed a transmission line called the "Malin-Midpoint line" in service. If the company had retained full ownership of the facility and all of its tax attributes, the company would have been able to achieve investment tax credits (ITC) and accelerated depreciation (accelerated cost recovery system or ACRS) associated with the project.^{4/} Pursuant to then-effective law, however, the company entered a "safe harbor lease transaction" in which it transferred for cash, to an unrelated third party, the right to use the tax benefits associated with the facility. The lessor gained the ITC and ACRS associated with the project in exchange for a cash payment of \$43,869,000.

The company proposes to adjust for the transaction as though it had never occurred and the company were taking ITC and ACRS to which it would be entitled. It contends that ratepayers received a benefit from the fiscal health of the company gained from the cash flow and the availability of the funds without borrowing or equity charges. It urges that the ratepayers are no worse off under this approach than if the transaction had not occurred.

The Commission staff proposes to treat the transaction as the sale of part of the benefits associated with the property and to amortize the cash receipts over the life of the related assets. This would normalize them in a manner similar to that required of ACRS tax depreciation benefits. The company contends that there is a substantial risk in the staff proposal that the transaction might be invalidated as contrary to the intent of congress. Mr. Watson discussed treasury regulations in support of this position. No regulation was brought to the Commission's attention, however, which appeared directly to speak to this situation; if regulations are promulgated which would have this effect, Pacific may in a subsequent proceeding seek reconsideration of this regulatory treatment.

The company also contends that the Commission staff's proposal "appropriates all of the benefit of the transaction for ratepayers and leaves little or no benefit for the company". Its present value analysis is contested by staff; it appears

^{4/}Pacific was near the limit of its ability to use such credits, however.

that the company proposal would pass a smaller benefit to ratepayers than would the Commission staff proposal but that the company receives some benefit from either treatment.

The staff's proposal is accepted. It provides a matching principle of accounting in treatment of the transaction, at the same time that it produces a more equitable sharing of the tax benefits between company and ratepayer.

D. General Wage Increase

This discussion relates to Line 2, Table I.

Within its adjustment for general wage increases, the company includes funding for an increase of 88 new employees, about one and one-half percent of the firm's work force. Mr. Jones' basic position for the Commission staff appears to be that these employees would be aiding the generation of new revenue or the reduction of expenses which should offset their cost, and that a complete picture consistent with restating and pro forma accounting would require consideration of those revenues or expense savings. The company contended the employees' expenses should be included because these employees were substantially unrelated to revenues or expense savings.

The record demonstrates that the Commission staff attempted repeatedly to secure information which would support the company's position that the employees were not revenue-related. The company initially failed to respond. It eventually provided a broad generalization which did not sufficiently support its position. A list of the employees did not identify the purposes for the various hires. The Commission accepts the Commission staff adjustment because it reflects proper pro forma treatment in the absence of credible evidence from the company that the new hires were not related either to revenue-producing or expense-saving activities.

E. Interest Expense

This discussion relates to Line 3, Table I, and to Table III.

When an actual test year debt level differs from the debt level in a capital structure adopted for ratemaking purposes, a pro forma debt interest adjustment is required. With differing levels of debt and perhaps embedded costs, the pro forma interest expense will differ from the test period actual. The federal income tax effect of the debt at the pro forma level must also be considered.

The Commission has recalculated the amount of this adjustment as shown in Table III, based upon the amounts and constituents of pro forma debt found appropriate for this proceeding. The adjustment found proper is \$1,544,000.