

Exhibit No. \_\_\_ (DPK-8)  
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 Second Supplemental Order in WUTC v. Pacific Power &  
Light Co., Cause No. U-83-33 (February 9, 1984), pages 1, 16 and 17*

**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-83-33

SECOND SUPPLEMENTAL ORDER

*W/P 1381*

**NATURE OF PROCEEDING:** Pacific Power & Light Company, hereinafter referred to as Pacific, company or respondent, filed revised tariff sheets on April 26, 1983, proposing a rate increase of \$20,560,000, before calculation of exchange credit under the Pacific Northwest Electric Power Planning and Conservation Act (Regional Power Act). The proposed tariff revisions were suspended and hearings were held upon the rate request.

**HEARINGS:** Hearings on this matter were held before Chairman Robert W. Bratton, Commissioner Mary D. Hall, and Commissioner A. J. "Bud" Pardini, pursuant to due and proper notice to all interested parties. The Administrative Law Judges were Clarence M. George, Pauline Corthell, and Alice L. Haenle of the Office of Administrative Hearings.

Hearings were held in Olympia, Washington, on June 15; August 11 and 12; September 26 and 27; November 21 and 22; and December 19, 1983. Public hearings were held in Walla Walla on November 28, 1983, and in Yakima on November 29, 1983.

**APPEARANCES:** Respondent was represented by Stoel, Rives, Boley, Fraser and Wyse, by Leonard A. Girard, George M. Galloway and Stephen H. Burger, Attorneys, Portland. The Commission staff of the Washington Utilities and Transportation Commission was represented by Donald T. Trotter, Assistant Attorney General, Olympia. The public of the state of Washington was represented by Joel E. Smith, Special Assistant Attorney General, Yakima, and by Robert F. Manifold, Assistant Attorney General, Seattle. Intervenor Direct Service Industrial Customers of the Bonneville Power Administration (DSIs) was represented by David H. Lohman and Grant E. Tanner, Attorneys, Portland. Intervenor Washington Industrial Committee for Fair Utility Rates (WICFUR) was represented by Marilyn R. Podemski and Grant E. Tanner, Attorneys, Portland.

**SUMMARY:** The Commission authorizes respondent to increase its rates to recover \$9,409,000 annually of the \$20,560,000 requested, including an adjustment for attrition in the amount of \$3,967,000.

The company and Commission staff agreed on one portion of the adjustment to depreciation reserve. The company made an adjustment in the amount of \$319,000 to adjust depreciation reserve for 1982 to include average additions consistent with the use of average rate base. The company agreed that this is an appropriate normalizing adjustment.

In addition to this \$319,000 portion of the adjustment, the Commission staff included adjustments for the effect of increasing depreciation expense granted in three prior cases. The Commission staff contended the company made a depreciation expense plant update adjustment in three prior rate cases without making a change in the reserve account, resulting in the "per books actual" in the reserve account being understated. The Commission staff further contended that the Commission in Cause Nos. U-82-12/U-83-35 rejected the company practice of not booking expenses when it should. The staff adjustment of \$952,000 adjusted also for Cause Nos. U-80-36, U-81-17, and U-82-12/U-82-35, bringing the depreciation reserve to an appropriate level as if the company had booked the depreciation adjustments correctly.

On rebuttal, company witness Stephen Pearson objected to those portions of the Commission staff's adjustment which impute an addition to depreciation reserve for ratemaking adjustments in prior cases for test years 1979, 1980 and 1981. The effect of adjusting for prior periods is to reduce the revenue requirement. Mr. Pearson concluded that, because the company did not have the opportunity to collect the additional depreciation expense during the test years, the portion of the Commission staff adjustment relating to prior years should be rejected.

The Commission has in prior cases addressed the company's practice of failing to book depreciation when depreciation is authorized in order to defer expenses until earnings are achieved sufficient to support them. The Commission in Cause Nos. U-82-12/U-82-35 ordered the company to cease this practice.

The Commission will accept the Commission staff's adjustment in the amount of \$952,000, including prior years. Neither the company nor the Commission staff included a full explanation of the circumstances surrounding the company's failure to book timely this depreciation in prior test years. The burden of proof remains on the company to demonstrate that its proposed increase is just and reasonable. The company's failure to fully explain any circumstances surrounding the failure to properly book depreciation in prior years leads to the conclusion that the company with respect to this adjustment has not sustained its burden of proof.

(3) Rate Base Deduction-Malin/Midpoint (Column 24)

The company and Commission staff differed in their treatment of tax benefits sold by the company in a safe harbor lease transaction. If the company had retained full ownership of the Malin/Midpoint transmission line, the company would be authorized to take investment tax credits (ITC) and accelerated depreciation (ACRS) associated with the project. As authorized under the tax law effective at the time of the transaction, the company entered into a "safe harbor lease transaction" in which

it transferred to a lessor the right to use the tax benefits associated with the facility, including ITC and ACRS, in exchange for cash in the net amount of \$43,574,000.

The company proposed to treat the transaction in the same manner it proposed in Cause Nos. U-82-12/U-82-35, as if the company still owned the facility and the transaction had not occurred. The company argued that the Commission staff's proposed treatment does not correspond to normalization requirements of the tax code.

The Commission staff proposed the same treatment proposed by it in Cause Nos. U-82-12/U-82-35. Commission staff witness Willard Kessel treated the cash received in the sale as a rate base reduction and proposed to amortize the net amount received of \$43,574,000 over the life of the related asset, which he calculated to be 30 years to be consistent with the book life of the Malin/Midpoint line. The amortization amount was then included in total operating revenue deductions. The Commission staff contended that the tax benefits associated with lease payments and interest income from the transaction will as a result of this treatment be flowed through to ratepayers in the year received. This in effect normalized the benefits of the transaction to coincide with the costs incurred.

On rebuttal, Mr. Pearson cited sections of the Internal Revenue Code including Code § 46(f)(1) and language added to § 168(f) by the Technical Corrections Act of 1982. Mr. Pearson further indicated that the company had requested clarification from the IRS. The company had asked whether the impact of regulatory treatment must be equivalent to that which would have been applied had the transaction not taken place, or whether a company alternate proposal would be allowable. The company's alternate proposal differed from the treatment of Commission staff in that the ITC cost of service reduction and amortization of deferred tax portion have been eliminated and replaced by amortization of the rent/interest timing difference, and the rate base reduction is slightly larger due to the above effects. The company proposed this alternate treatment be used only if the Commission rejects its primary proposal.

As it did in Cause Nos. U-82-12/U-82-35, the Commission accepts the Commission staff's proposal. The transaction did take place, providing certain benefits to both the company and potentially to ratepayers. The treatment proposed by staff allows a sharing of these tax benefits between the company and the ratepayer. Again, the company has not cited any law or regulations which directly address the situation. In the event that the company receives clarification regarding the issue and the company's alternate proposal, the company should present the alternatives to the Commission in a subsequent proceeding. The Commission does not believe that the treatment accepted by it will jeopardize the company's ability to take investment tax credits.

(4) Cash Working Capital (Column 26)

The company and the Commission staff performed investor-supplied working capital analyses to determine the amount of investor-supplied working capital which should be included in