

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION)	
COMMISSION,)	DOCKET NO. UE-991832
)	
Complainant,)	
)	THIRD SUPPLEMENTAL ORDER
v.)	APPROVING AND ADOPTING
)	SETTLEMENT AGREEMENTS; REJECTING
PACIFICORP d/b/a PACIFIC)	TARIFF SHEETS; AUTHORIZING AND
POWER & LIGHT,)	REQUIRING COMPLIANCE FILING
)	
Respondent.)	
.....)	

Synopsis: The Commission approves two settlement agreements that establish a five-year rate plan for PacifiCorp. The approved rate plan provides for rate stability through gradual increases in generally available rates during the three years following PacifiCorp's recent merger with ScottishPower, followed by two years of no general rate increases. The approved settlement terms require accountability, including a comprehensive rate review at the end of the rate plan period, and provide for ongoing processes related to prudence of resource acquisitions, low-income programs, and conservation measures. The settlement terms extend existing performance standards for network reliability and customer service, and customer service guarantees, through the end of the five-year period.

I. SUMMARY

1 **PROCEEDINGS:** On November 24, 1999, PacifiCorp d/b/a Pacific Power & Light ("PacifiCorp" or "Company") filed certain tariff revisions designed to effect a general increase in its rates for electric service. The Company's letter of transmittal indicated that the cumulative effect of the tariff filing would be to increase annual revenues by \$25.8 million. The Commission, by Order entered December 29, 1999, suspended the operation of the tariff revisions pending hearing or hearings concerning such changes and the justness and reasonableness thereof. The Commission convened prehearing conferences in this matter in Olympia, Washington, on January 21, 2000, April 21, 2000, and June 1, 2000, before Administrative Law Judge Dennis J. Moss. The Commission conducted evidentiary hearings on April 25 and 26, 2000, and June 5, 6, and 7, 2000, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, Commissioner William R. Gillis, and Administrative Law Judge Dennis J. Moss. Further hearing proceedings were conducted on July 17, 2000, before the Commissioners and presiding ALJ to consider a proposed comprehensive settlement

of the issues. Finally, hearing proceedings were conducted on July 20, 2000, before the Commissioners and Administrative Law Judge Marjorie Schaer, in Yakima, Washington, to receive into the record comments from ratepayers and other members of the public who expressed an interest in the outcome of this general rate case.

2 **PARTIES:** James M. Van Nostrand and Stephen C. Hall, Stoel Rives LLP, Seattle, Washington, represent PacifiCorp. Robert Cedarbaum, Assistant Attorney General, Olympia, Washington represents Commission Staff (Staff). Simon ffitch and Robert Cromwell, Assistant Attorneys General, Seattle, Washington, represent Public Counsel. Melinda Davison, Bradley Van Cleve, and Michael T. Brooks, Duncan, Weinberg, Genzer & Pembroke, P.C., Portland, Oregon, represent Industrial Customers of Northwest Utilities (ICNU). Danielle Dixon, Policy Associate with the Northwest Energy Coalition (NVEC), Seattle, Washington, represents that organization. Chuck Ebert, Manager, The Opportunity Council/The Energy Project, Bellingham, Washington, represents Yakima Valley Farm Workers Clinic (YVFWC), Yakima Valley Opportunities Industrialization Center (Yakima OIC), and the Washington State Association of Community Action Agencies' Energy Project; these groups will be referred to collectively as "The Energy Project."

3 **COMMISSION:** The Commission approves and adopts two unopposed stipulations that together establish rates that are just, reasonable, and compensatory for a five-year Rate Plan Period and that establish processes that will promote a well-reasoned determination of various deferred issues on a going-forward basis. The stipulations strike an appropriate balance among the interests of the ratepayers, the Company, and the public generally, and are in the public interest.

II. MEMORANDUM

A. Background and Procedural History

4 On November 24, 1999, PacifiCorp d/b/a Pacific Power & Light filed proposed tariff revisions designed to effect a general increase in its rates for electric service. The cumulative effect of the tariff filing would be to increase annual revenues by \$25.8 million, according to PacifiCorp. PacifiCorp proposed to implement this approximately 15 percent rate increase in two steps, over two years. The Commission, by Order entered December 29, 1999, suspended the operation of the tariff revisions pending hearing or hearings concerning such changes and the justness and reasonableness thereof. The Commission convened prehearing conferences in this matter in Olympia, Washington, on January 21, 2000, April 21, 2000, and June 1, 2000, before Administrative Law Judge Dennis J. Moss.

5 The Commission conducted evidentiary hearings on April 25 and 26, 2000, and June 5, 6, and 7, 2000, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, Commissioner William R. Gillis, and Administrative Law Judge Dennis J.

Moss. During this first round of hearings, the Commission received into evidence PacifiCorp's case-in-chief, including prefiled direct testimony and exhibits prepared by the Company's witnesses; heard cross-examination of those witnesses; and received into evidence numerous cross-examination exhibits.

- 6 Additionally, during the proceedings on June 6, 2000, the Commission received and considered a Stipulation regarding rate spread (Rate Spread Stipulation) entered into by PacifiCorp, ICNU, Public Counsel, and Staff. *Exhibit No. 268 (Rate Spread Stipulation)*. These Parties proposed that the Rate Spread Stipulation be accepted as a fair and reasonable resolution of all issues concerning how any revenue increase or decrease approved by the Commission would be allocated among customer classes. Following presentation by a panel of witnesses, and inquiry from the Bench, the Commission deliberated in chambers and determined that the proposed Rate Spread Stipulation should be approved and adopted. *TR. 764-778*. The Commission announced its decision on the record at the proceedings on June 6, 2000, and finalizes its determination through this Order in accordance with WAC 480-09-780.
- 7 On June 20, 2000, the Commission was advised formally that all the Parties had reached agreement on a stipulation proposed to resolve by its terms, or defer to other proceedings, all the remaining contested issues in the case. *Exhibit No. 269 (Comprehensive Stipulation)*. The Parties jointly requested the Commission to schedule a hearing at which the Parties proposed to present a panel of witnesses to sponsor the Comprehensive Stipulation and respond to any questions from the Bench regarding its terms. In effect, the Parties requested suspension of all then-pending process and procedural dates and the establishment of alternative process and an expedited hearing on the proposed Comprehensive Stipulation. The Commission granted this request and set the earliest available dates for the settlement hearing in Olympia and a hearing in PacifiCorp's service territory to receive public comment.
- 8 The Commission held a hearing on July 17, 2000, before the Commissioners and presiding ALJ to consider the proposed comprehensive settlement of the issues. The Parties' Comprehensive Stipulation was received into evidence as Exhibit No. 269. Finally, a hearing was conducted on July 20, 2000, before the Commissioners and Administrative Law Judge Marjorie Schaer, in Yakima, Washington, to provide an opportunity for comments from any ratepayers and other members of the public who expressed an interest in the outcome of this general rate case. No public witnesses appeared to offer testimony. Written comments from the public were received into evidence. *Exhibit No. 279*.

B. Discussion and Decision

1. Governing Statutes and Rules

9 The following statutory provisions and rules establish standards that govern the Commission's determinations in this general rate proceeding:

RCW 80.01.040 General Powers and Duties of Commission

The utilities and transportation commission shall:

(3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation, and related activities; including, but not limited to, electrical companies . . .

RCW 80.04.130 Suspension of tariff change . . .

(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.

RCW 80.04.150 Remunerative rates cannot be changed without approval.

Whenever the commission shall find, after hearing had upon its own motion or upon complaint as herein provided, that any rate, toll, rental or charge which has been the subject of complaint and inquiry

is sufficiently remunerative to the public service company affected thereby, it may order that such rate, toll, rental or charge shall not be changed, altered, abrogated or discontinued, nor shall there be any change in the classification which will change or alter such rate, toll, rental or charge without first obtaining the consent of the commission authorizing such change to be made.

80.28.010 Duties as to rates, services, and facilities . . .

(1) All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.

(2) Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable. . . .

80.28.020 Commission to fix just, reasonable, and compensatory rates.

Whenever the commission shall find, after a hearing had upon its own motion, or upon complaint, that the rates or charges demanded, exacted, charged or collected by any gas company, electrical company or water company, for gas, electricity or water, or in connection therewith, or that the rules, regulations, practices or contracts affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable, or sufficient rates, charges, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order.

80.28.090 Unreasonable preference prohibited.

No gas company, electrical company or water company shall make or grant any undue or unreasonable preference or advantage to any person, corporation, or locality, or to any particular description of

service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

80.28.100 Rate discrimination prohibited--Exception.

No gas company, electrical company or water company shall, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas, electricity or water, or for any service rendered or to be rendered, or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like or contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

10 Additional parts of Chapters 80.01, 80.04, and 80.28 RCW including, but not limited to, RCW 80.04.250, RCW 80.04.350, RCW 80.04.360, RCW 80.28.050, RCW 80.28.060, RCW 80.28.080 apply. Chapters 480-80 and 480-100 WAC apply generally.

11 Chapter 480-09 WAC governs the procedures by which our review is conducted. Most pertinent to our consideration here is WAC 480-09-466, which provides in relevant part:

The commission favors the voluntary settlement of disputes within its jurisdiction. It will approve settlements when doing so is lawful and when the result is appropriate and consistent with the public interest in light of all the information available to the commission. .

..

(2) Settlements. A settlement is an agreement among two or more parties to a proceeding to resolve one or more issues.

(a) The commission may exercise discretion whether to accept a proposed settlement for its review. If the commission accepts a settlement for review in an adjudication, the commission will schedule a time at a hearing session for parties to present the settlement and for the commissioners to inquire about it, unless the commission believes such a session to be unnecessary for it to exercise informed judgment upon the proposal.

(b) Partial settlement. An agreement of all parties on some issues may be presented as a partial settlement for commission review, and remaining matters may be litigated.

(c) Multiparty settlement. An agreement of some, but not all, parties on one or more issues may be offered as their position in the proceeding, with the evidentiary proof that they believe appropriate to support it, for commission review. Nonsettling parties may offer evidence and argument in opposition.

(d) Parties shall advise the commission when they have reached a partial or multiparty settlement and may suggest preferred procedural alternatives for review of the settlement. The commission will determine the appropriate procedure.

2. Settlement Terms

- 12 We review in this Order the two stipulations that various Parties propose as a means to resolve all issues pending in this proceeding. On June 6, 2000, PacifiCorp, ICNU, Public Counsel, and Staff filed a partial, multiparty settlement to address the question of how any rate increase or decrease approved by the Commission is to be allocated among customer classes. The settling Parties presented a panel of witnesses to support the Rate Spread Stipulation. No one stated opposition to this proposal.
- 13 On June 20, 2000, all Parties to this proceeding (*i.e.*, PacifiCorp, ICNU, NWECC, The Energy Project, Public Counsel, and Staff) filed a partial settlement to address all remaining issues in this proceeding. Because this agreement is proposed to resolve, or defer to other proceedings, all of the contested issues, and would establish rates for a definite period, we refer to it as the Comprehensive Stipulation. The Parties again presented a panel of witnesses to support their settlement agreement.
- 14 The Commission has considered the Rate Spread Stipulation and the Comprehensive Stipulation against the statutory standards outlined above and in the context of the full record. Although we have some reservations about the deferral of certain issues, we find that the end results produced by applying the settlement terms meet the applicable statutory standards. We find that the two settlements, considered together in the context of the full record in this proceeding produce results that appropriately balance the interests of the Company, the ratepayers, and the public generally and, hence, are in the public interest. Accordingly, the Commission approves and adopts the two stipulations as reasonable resolutions of the pending issues and that produce just, reasonable, and sufficient rates, charges, regulations, and practices, all of which should be effected prospectively via an appropriate compliance filing.

15 We summarize here, for convenience, the essential terms of the two stipulations. We attach to this Order as Appendices "A" and "B" the stipulations themselves, and adopt these stipulations as part of our Order. Accordingly, to the extent of any arguable deviation in our summary from the terms of the stipulations, we intend that the stipulations will control, unless we expressly state to the contrary.

a. Rate Spread Stipulation

1. Settlement Terms

16 The settling Parties represented through their Rate Spread Stipulation (*Exhibit No. 268*) that Staff, Public Counsel, and ICNU evaluated PacifiCorp's as-filed rate spread proposal and underlying cost of service study (*Exhibit No. 214*) in light of regulatory principles previously applied to cost allocation and rate spread in proceedings involving PacifiCorp and other regulated electric utilities. Based on their evaluation, these Parties met with, and negotiated settlement terms by which they proposed to resolve the rate spread issue. Through their Rate Spread Stipulation, the settling Parties recommend a methodology to apply to any increase or decrease in revenue requirement, which will effect, in turn, increased or decreased rates. The Commission considered and approved the Rate Spread Stipulation during hearing proceedings on June 6, 2000. We summarize here the essential terms of the Rate Spread Stipulation and memorialize the Commission's findings and conclusions based on our analysis in light of the record in this proceeding.

17 The Rate Spread Stipulation provides that any increase or decrease in revenue authorized in this proceeding will be spread among all customers that take service from PacifiCorp under the Company's tariffs of general applicability based on fundamental principles of cost causation. The average percentage change, positive or negative, is the benchmark against which changes in individual customer class rates are to be determined. The average percentage change is to be calculated by dividing the total revenue requirement change by the total revenues from all standard tariff customers.

18 The Rate Spread Stipulation proposes that any increase in revenue be spread among customer classes as follows:

19 a. Schedule 24 (General Service), which applies generally to commercial customers, will receive an increase equal to 90 percent of the average percentage change;

20 b. Schedules 15, 51, 52, 53, 54, and 57 (Street and Area Lighting) each will receive an increase equal to 75 percent of the average percentage change;

21 c. All other rate schedules, including residential, industrial, and pumping service customers, each will receive an equal percentage increase to capture the residual

revenue requirement increase allowed, which is approximately 102 percent of the average percentage change.

22 The Rate Spread Stipulation also provides that any overall increase in electric revenues of nine percent or more, including any Systems Benefit Charge, will be phased in over two years. By this Order, as discussed below, we approve a rate increase of substantially less than nine percent and defer consideration of the proposed Systems Benefit Charge, consistent with the terms of the Comprehensive Stipulation.¹ Thus, we find that this provision in the Rate Spread Stipulation is of no practical effect. Nor is it necessary to consider the terms by which any rate decrease would be spread among customers under the terms of the Rate Spread Stipulation.

2. Evidence

23 William R. Griffith, on behalf of PacifiCorp, in response to questions from the Bench, stated that the rate rebalancing reflected under the rate spread proposal is an effort to "move all customer classes towards cost of service." *TR. 770*. Mr. Griffith testified that under current rates commercial customers under Schedule 24, and lighting customers, pay more than the actual cost of serving those customers, while all other customer classes pay slightly less than the actual cost of service. *Id.*

24 James Lazar, on behalf of Public Counsel, testified that cost of service is only one factor the Parties considered. *TR. 770*. In addition, the Parties who negotiated the rate spread settlement took into account factors such as customer impact and economic conditions in the service territory. On the subject of cost of service, however, Mr. Lazar stated that "[w]e don't concede that all customer classes impose the same risks on the Company, but we did test other cost allocation methods, and they consistently showed that the Schedule 24 class was pulling a comparatively heavy load, and the street lighting class was carrying a very heavy load." *TR. 771*. David L. Taylor, on behalf of PacifiCorp, added that "[a]t any level of overall revenue requirement change, this stipulation proposal is going to bring all classes closer to parity cost of service." *TR. 774*.

3. Commission Analysis and Determination

25 The Commission considered the Rate Spread Stipulation in chambers and, taking into account the portions of the record pertinent to that issue, found the agreement offers a reasonable resolution of the issues concerning how any change in revenue requirement should be allocated among customer classes. As related above, it appears from the evidence that the rate spread stipulation is grounded in principles of

¹ We note here, and discuss separately below, that the Comprehensive Settlement establishes timing criteria governing the Company's implementation of any increase in rates if the Commission subsequently approves a Systems Benefit Charge.

cost causation, yet takes into account other pertinent factors such as customer impact and economic conditions in PacifiCorp's market. The testimony by the settlement panel witnesses collectively provides us with an adequate understanding of the process, the factual basis, and the rationale that supports the settlement proposal. Thus, the Rate Spread Stipulation, viewed in light of the record, satisfies our requirement that a settlement "should be transparent, not a 'black box.'" Fifth Supplemental Order Accepting Stipulation, *In the Matter of the Investigation on the Commission's Own Motion into the Propriety and Adequacy of Certain Depreciation Rates of U S WEST COMMUNICATIONS, INC.*, Docket No. UT-951425 (August 18, 1997) at 4.

- 26 The Commission announced its ultimate finding on the record and stated it would incorporate its decision to approve and adopt the Rate Spread Stipulation into this final Order. *TR. 778*. We reiterate here that we find the rate spread effectuated under the settlement terms reasonable and adequately supported on the record. The allocation of the revenue increase we approve by this Order in the fashion required under the Rate Spread Stipulation will promote the realization of rates that are just, reasonable, and compensatory; and that are neither unjustly discriminatory nor unduly preferential. The Rate Spread Stipulation is in the public interest.

b. Comprehensive Stipulation

- 27 The Comprehensive Stipulation relates that following the presentation of the Company's case in chief, including cross-examination of PacifiCorp's prefiled direct testimony on April 24-26 and June 5-7, 2000, the Parties commenced settlement discussion for the purpose of resolving the contested issues in this proceeding. Those talks resulted in the Comprehensive Stipulation being filed on June 20, 2000. We conducted a hearing on the Comprehensive Stipulation on July 17, 2000, and concluded the Commission's hearing process with a public hearing in Yakima, Washington on July 20, 2000, during which we provided an opportunity for oral comments from members of the public. No public witnesses appeared to testify. Written comments from citizens and businesses were received as Exhibit No. 279.

1. Settlement Terms

- 28 The Comprehensive Stipulation would establish a five-year "Rate Plan Period" to commence on the date of a Commission order approving the Comprehensive Stipulation and to end on December 31, 2005. During the Rate Plan Period, the Parties would neither propose, nor recommend that the Commission approve, any change to the Company's general base rates in Washington. There are various "carve-outs" from this rate change moratorium including rate changes that might be proposed in connection with a Systems Benefit Charge or other mechanism for separate recovery of Demand Side Management (DSM) expenditures or low-income

energy efficiency, and as provided in Sections 9 and 11 of the Comprehensive Stipulation.

29 Section 9 of the Comprehensive Stipulation provides that:

The moratorium on general rate filings during the Rate Plan Period does not preclude the Company from requesting, or the Commission from approving, tariff or rate changes for the following purposes:

- a. Impact of governmental or legislative actions, such as changes in Federal tax rates or changes in environmental laws or regulations;
- b. Tariff filing pursuant to Section 7 of this Stipulation to implement a System Benefits Charge;
- c. Tariff filing pursuant to Section 14 of this Stipulation to implement low-income assistance programs;
- d. Impact of changes in transmission costs due to implementation of a regional transmission organization, or RTO, (including action on motion of the Commission or any Party in the case of a cost decrease);
- e. Revenue-neutral filings to implement intra-class cost of service changes or redesign of intra-class electric rates as necessary to accommodate market conditions; and
- f. Ongoing regulatory activities, such as: New service offerings; pursuing special contracts tailored to meet individual customer needs; participation in Commission notices of inquiry, or NOIs, on electric industry issues, including the opportunity to seek related rule or tariff changes; and tariff changes associated with pass-through of credits and surcharges, such as municipal utility taxes.

30 Section 9 also provides that PacifiCorp is not precluded from submitting petitions for accounting orders, as appropriate, for treatment of revenues, investments or expenditures during the Rate Plan Period. Section 9 states that PacifiCorp may continue to seek regulatory approval of proposed transactions pursuant to

Chapter 80.12 RCW (Transfers of Property), under separate filings with the Commission.

31 Section 11 of the Comprehensive Stipulation provides that PacifiCorp may make a general rate filing during the Rate Plan Period in event of either of the following:

- a. Interim rate relief is warranted under the six-part standard adopted by the Commission in *WUTC v. Pacific Northwest Bell Telephone Company*, Cause No. U-72-30 (October 1972), and the Company is requesting similar rate relief in its two largest U.S. retail jurisdictions; or
- b. Industry or corporate restructuring whereby the Company ceases to operate in Washington as a vertically-integrated utility with bundled rates. Such restructuring includes industry restructuring by legislation or Commission order or actions taken by the Company, on its own initiative or to comply with regulatory directives, including divestiture of generating or transmission assets.

32 Other Parties to the Comprehensive Stipulation may petition to require, or the Commission on its own motion may require, PacifiCorp to make a general rate filing if these conditions eventuate.

33 The Stipulation states that the rate plan is designed to achieve three principal objectives. The first objective is to reduce or eliminate "rate shock." The rate increases provided for under the Stipulation would be phased in over a three year period as follows:

- (a) A 3.0% increase in the Company's general base rates, to be effective as of September 1, 2000. Although effective as of September 1, 2000, implementation in customer rates shall be delayed to January 1, 2001 (to coincide with the effective date of the merger credit), with the revenue for the intervening period (September 1 through December 31, 2000) deferred for recovery beginning January 1, 2001. Interest shall accrue on such deferral at 8.80% until recovered in rates. Such deferral shall be recovered during 2001.
- (b) A 3.0% increase in the Company's general base rates, to be effective as of January 1, 2002.
- (c) A 1.0% increase in the Company's general base rates, to be effective as of January 1, 2003.

- 34 These increases are exclusive of the mentioned merger credit to customers of \$3.0 million per year for four years, beginning January 1, 2001, and do not reflect the separate credit to customers from the customers' share of the Washington-allocated final gain realized from PacifiCorp's sale of the Centralia plant, which PacifiCorp is required to return to its customers under the Comprehensive Stipulation.² Credits from the Centralia sale gain are to be paid during the five-year period beginning January 1, 2001, and continuing through December 31, 2005, or until the gain has been fully returned to customers. The unamortized balance of the Centralia gain will bear a carrying charge of 8.80 percent for purposes of calculating this credit under the Comprehensive Stipulation.
- 35 Both the merger credit and the Centralia-gain credit commence on January 1, 2001. Although the Comprehensive Stipulation contemplates a September 1, 2000, effective date for tariff sheets to be filed in compliance with this Order approving the Comprehensive Stipulation, the increases outlined above will not be reflected on customer's bills until January 1, 2001, when the mentioned credits will offset, in part, the impact of the rate increases.
- 36 Turning to the question of how the proposed rate increases would be reflected in rates, the Comprehensive Stipulation addresses rate design issues by providing that the customer charge to residential ratepayers will increase from \$3.75 to \$4.25 effective September 1, 2000.³ On January 1, 2002, the customer charge would increase to \$4.40, and on January 1, 2003, the customer charge would increase again, to \$4.50. The balance of the annual rate increases to residential customers each year would be reflected in the energy tail block rate.⁴ For rates other than residential rates, the Parties accept the rate design proposed by PacifiCorp in Exhibit No. 232, proportionately reduced to reflect the smaller increases provided under the Comprehensive Stipulation.

² The Comprehensive Stipulation states that the final gain resulting from the sale of PacifiCorp's share of the Centralia plant is to be determined in Docket No. UE-991262 following PacifiCorp's compliance filing in that proceeding. The Comprehensive Stipulation notes that for purposes of calculating the Washington share of the PacifiCorp system, the Parties agree that 15.4 percent is the appropriate allocation factor.

³ This reflects the deferred charges from September 1, 2000, through December 31, 2000, which bear carrying charges at 8.80 percent per annum during the proposed four month deferral period.

⁴PacifiCorp's tariff includes per-unit commodity rates (i.e., rates per kWh) that increase as a customer's consumption of power passes one or more threshold levels specified under individual rate schedules. This "tail block rate" is the highest rate cohort in each such rate schedule.

- 37 The second principal objective is to address the Parties' expectation that the Rate Plan Period will encompass "a period of significant transition for the Company." This refers to the implementation of the company's Transition Plan (*Exhibit No. 146*), which was prepared following the merger of PacifiCorp with Scottish Power. *Exhibit No. 274*. (Response to Bench Request No. 7). The Transition Plan describes the steps to be taken by the company over the next five years to reduce costs and improve quality of service for PacifiCorp's Washington customers, according to the Company. *Id.* In that connection, the Stipulation states that the rate plan is meant to reflect the difficulty the Parties perceive in setting rates during such a transition period.⁵ According to the Comprehensive Stipulation, the agreement provides PacifiCorp an opportunity to earn a reasonable return over the Rate Plan Period, while providing customers predictable and relatively stable rates.
- 38 The third principle objective is accountability. Thus, at the end of the Rate Plan Period, PacifiCorp is required to submit either a filing demonstrating that its then-existing rates are reasonable, or a general rate filing. The Comprehensive Stipulation asserts that this "will enable the Commission and the Parties to examine the Company's performance over the Rate Plan Period, and to evaluate the reasonableness of the Company's rates in light of the conditions that exist following the Rate Plan Period." Section 3 of the Comprehensive Stipulation requires that the appropriate filing be made by PacifiCorp no later than July 1, 2005, with the proposed effective date for any proposed change in rates to be no earlier than January 1, 2006.
- 39 In addition to the three principal objectives, as described above, the Comprehensive Stipulation specifically resolves issues related to depreciation, benefits from the Bonneville Power Administration (BPA), the write-down of PacifiCorp's Trojan generating unit investment, "low-income matters," and service quality. We turn briefly to a summary of each of these matters.
- 40 The Parties recommend that PacifiCorp's proposed depreciation rates, based on the updated depreciation study included in Exhibit 59, and modified by Exhibit 61, be

⁵ The company's response to Bench Request No. 7, for example, expresses PacifiCorp's view that:

It is difficult to set rates during the implementation of the Transition Plan because the expenditures that must be made in the early years of the transition are "lumpy," and it is therefore challenging to identify a representative test period upon which to set rates. Moreover, these early year expenditures are "costs to achieve" that will produce savings in later years, making it difficult to match costs with savings during any particular year of the transition period. By waiting to set rates after the Rate Plan Period, when the Transition Plan is fully implemented, the test period should be more representative of expected future operations of the Company.

approved, effective April 1, 2000. This would effect certain changes in depreciation for various assets prospectively from that date.

- 41 PacifiCorp commits to submit a tariff filing to implement the results of the BPA Subscription process to flow through to eligible customers any benefits received by PacifiCorp from BPA. These benefits may be in the form of subscription benefits or residential exchange credits. The Parties anticipate BPA's decision on the subscription process will be entered on October 1, 2001. They propose that any benefits received by PacifiCorp commencing on that date be deferred for payment to customers until January 1, 2002, to the extent consistent with federal law.⁶ Thus, the flow-through of any benefits would coincide with the second 3.0 percent base rate increase under the settlement terms.
- 42 PacifiCorp agrees that over the Rate Plan Period it will write-down on its Washington books any remaining investment it has in the Trojan nuclear generating unit. Additionally, PacifiCorp commits that its next general rate filing in Washington will not include any proposed recovery or amortization of this investment.
- 43 Section 8 of the Comprehensive Stipulation extends until the end of the Rate Plan Period the service quality provisions we adopted in our Fifth Supplemental Order that approved the merger between PacifiCorp and Scottish Power in Docket No. UE-981627. These provisions include performance standards for network reliability and customer service, and customer service guarantees. PacifiCorp is required under the settlement terms to continue to report its performance with respect to network reliability and customer service through the end of the Rate Plan Period.
- 44 Four matters are deferred under the Comprehensive Stipulation. Under Section 6, the Parties commit to initiate, within 30 days after Commission approval of the stipulation, a process to examine the prudence of PacifiCorp's generation facility resource acquisitions since its last general rate proceeding in Cause No. U-86-02 that are included in PacifiCorp's filing in this proceeding. Six principal generating assets are involved. The Comprehensive Stipulation notes that:

Notwithstanding that the costs of these resources may have been reflected in test year operating results in this proceeding, the Craig, Hayden, Cholla, Hermiston, and Foote Creek generating units shall not be considered as part of

⁶ The Comprehensive Stipulation expressly recognizes PacifiCorp's obligation to meet the requirements of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839c(c).

rate base for Washington ratemaking purposes until their prudence has been evaluated in the Company's next general rate case.⁷

45 The process contemplated under the Comprehensive Stipulation is to be completed by October 1, 2001, and will result in a "Joint Report" from the Parties to the Commission. If the Parties fail to agree about the prudence of a particular resource acquisition, separate statements of position may be provided to the Commission. The Joint Report is required to be presented to the Commission as part of PacifiCorp's next general rate proceeding. Before then, PacifiCorp may take action in response to the Joint Report, but any such action will not affect the rates established under the Stipulation.

46 Also deferred under the settlement terms is the question whether PacifiCorp's rates and charges should include a Systems Benefit Charge. The Comprehensive Stipulation provides in Section 7 that fifteen days after Commission approval, or such later time as all Parties may agree, PacifiCorp will file in a separate proceeding its proposal for a Systems Benefit Charge. The Stipulation contemplates that the filing will provide for recovery of PacifiCorp's DSM expenditures in Washington. The filing is required to address the recovery of energy efficiency investments, including low-income weatherization and regional market transformation, but will not include recovery of the above-market costs of new renewable resources. PacifiCorp may seek to include above-market renewable resource costs in a Systems Benefit Charge in a subsequent filing. However, the Parties specifically note that "[n]othing in this Stipulation addresses the recovery . . . of the costs associated with its commitment to renewable resources [under the] stipulation . . . accepted by the Commission in its Fifth Supplemental Order in Docket No. UE-981627, the PacifiCorp/Scottish Power merger proceeding." The Comprehensive Stipulation also provides that the recovery through rates of any Systems Benefit Charge approved before January 1, 2001, may be deferred until that date to coincide with the implementation of other rate changes under the Comprehensive Stipulation.

47 Turning to "low-income matters," the Comprehensive Stipulation provides that by August 15, 2000, or at a later date agreed to by all Parties, PacifiCorp will convene interested stakeholders to discuss a low-income tariff proposal to implement RCW 80.28.068, which authorizes low-income assistance programs. Following consideration of specific proposals by stakeholders, PacifiCorp commits to "use reasonable best efforts to develop and submit a tariff filing mutually acceptable to the Parties to implement RCW 80.28.068 by November 15, 2000, or a later date agreed to by all Parties, with an anticipated implementation date of January 1, 2001."

⁷ The Comprehensive Stipulation inadvertently omits from this provision the James River generating unit required by PacifiCorp in 1996. *TR*. 883. We include that facility within the compass of this term of the Comprehensive Stipulation and, to that extent, our Order controls.

48 Finally, Section 13 of the Comprehensive Stipulation provides that the changes PacifiCorp proposed to Schedule 300 as part of its general rate filing in this docket may be submitted in a separate tariff filing. Section 13 also provides that PacifiCorp may make future filings during the Rate Plan Period to update the cost elements included in the Schedule 300 miscellaneous charges.

2. Evidence

49 We begin our review of the record by comparing the settlement rate increases during calendar years 2001 and 2002, to PacifiCorp's as-filed rates during each of those years.⁸ These comparisons are shown on Tables 1 and 2.

TABLE 1
COMPARISON OF AS-FILED BASE RATE INCREASE TO SETTLEMENT BASE RATE INCREASE FOR YEAR ONE

CLASS OF SERVICE	BASE RATE INCREASE AS-FILED	BASE RATE INCREASE PER SETTLEMENT*	SETTLEMENT MERGER CREDIT	SETTLEMENT CENTRALIA CREDIT	NET PER SETTLEMENT WITH CREDITS
RESIDENTIAL SCHEDULE 16	11.0%	4.1%	1.7%	2.8%	-0.4%
GENERAL SERVICE SCHEDULE 24	5.9%	3.6%	1.7%	2.8%	-0.9%

⁸ Exhibit No. 270 (Bench Request No. 3); Exhibit No. 230-T (Griffith) at 5.

GENERAL SERVICE SCHEDULE 36	11.0%	4.1%	1.7%	2.8%	-0.4%
LARGE GENERAL SERVICE SCHEDULE 48T	11.0%	4.1%	1.7%	2.8%	-0.4%
IRRIGATION SCHEDULE 40	11.0%	4.1%	1.7%	2.8%	-0.4%
LIGHTING SCHEDULES	4.0%	3.1%	1.7%	2.8%	-1.4%
TOTAL	8.1%	4.0%	1.7%	2.8%	-0.5%

* These percentage increases reflect a September 1, 2000, effective date for the settlement rates. Under the Comprehensive Stipulation, PacifiCorp will defer implementation of the rates in customer billing until January 1, 2001. Thus, although the agreed increase in annual revenues is 3.0%, recovery of the deferred amounts in rates results in an overall 4.0% increase in base rates for calendar year 2001.

**TABLE 2
COMPARISON OF AS-FILED BASE RATE INCREASE TO
SETTLEMENT BASE RATE INCREASE FOR YEAR TWO**

CLASS OF SERVICE	BASE RATE INCREASE, AS-FILED	BASE RATE INCREASE PER SETTLEMENT*
RESIDENTIAL SCHEDULE 16	6.7%	2.1%
GENERAL SERVICE SCHEDULE 24	3.0%	1.8%
GENERAL SERVICE SCHEDULE 36	4.9%	2.1%

LARGE GENERAL SERVICE SCHEDULE 48T	7.4%	2.1%
IRRIGATION SCHEDULE 40	9.6%	2.1%
LIGHTING SCHEDULES	2.0%	1.5%
TOTAL	5.7%	2.0%

* These percentage increases reflect a September 1, 2000, effective date for the settlement rates. Under the Comprehensive Stipulation, PacifiCorp will defer implementation of the rates in customer billing until January 1, 2001. The effect of the year 2000 revenue deferral is eliminated in rates in during year two. Thus, although the agreed increase in annual revenues for year two is 3.0%, adjustment to account for removal of deferred revenue recovered in year one results in an overall 2.0% increase in base rates for calendar year 2002.

50 Overall, under PacifiCorp’s as-filed rates, the base rates reflected on customers’ bills would have increased 8.1 percent on November 1, 2000, and by another 5.7 percent on November 1, 2001. Under the Comprehensive Stipulation, PacifiCorp’s customer’s bills will reflect a 4.0 percent increase in base rates on January 1, 2001. This is offset by the merger credit and Centralia credit so that the overall effect on customers as of January 1, 2001, will be a slight reduction in the amount they pay. This will be followed on January 1, 2001, by increases in base rates in the range from 1.5 percent to 2.1 percent. There is a further increase in base rates of 1.0 percent in 2003 under the Comprehensive Stipulation. The cumulative effect on customers under the settlement is a rate increase that is approximately one-half what PacifiCorp requested by its filing. In addition, the smaller increase under the settlement is more gradual than would have been the case under PacifiCorp’s as-filed request that would have phased in the increases over two years, not three. The cumulative increase in rates at the third year under the settlement, results in the customers experiencing less of an increase as of January 1, 2003, than what PacifiCorp proposed in its filing to implement as of November 1, 2000.

51 During the settlement hearing, the Bench inquired specifically into the implications of approving the proposed settlement rates without explicitly incorporating into the Commission’s analysis review of PacifiCorp’s prudence in deciding to acquire six generating facilities since its last rate case in 1986. *TR. 860*. The six generating plants are identified as Cholla, acquired by PacifiCorp in 1990; Craig and Hayden, both acquired in 1992; Hermiston and James River, both acquired in 1996; and Foote Creek, acquired in 1999. Counsel for Staff responded to this inquiry by relating that

from Staff’s perspective, Staff is comfortable with the level of rate relief that has been included in the rate plan of three percent, three percent, one percent, and then zero percent, and zero percent for the five years, and that is really a separate matter from the prudence review, and that is consistent with the

Commission's precedent and practice of analyzing prudence, the prudence of acquisitions in a general rate case, in that the rate case will come after the five-year rate plan. That's the point in time when the Commission would have that issue before it, and in the meantime, the parties will develop a report that the Commission will have access to with respect to the prudence. . . . Staff's perspective is that the rates in the rate plan established rates that are just, fair, reasonable, and sufficient and that you don't need at this point to get into the prudence review in order to adopt the rate plan.

52 *TR. 860-61.* Mr. Elgin, Staff's settlement panel witness, confirmed counsel's statement and described the proposal as follows:

It's a balance. What we are looking at are these modest levels of rate increases in light of the expected outcomes of what may or may not come about as a result of a prudence determination and a specific finding by the Commission in terms of whether or not this Company was prudent or imprudent with respect to any of these resources, and then what is the effective remedy.

53 *TR. 880-81.* Mr. Elgin went on to testify that even when the Company is found to have made an imprudent acquisition, "[t]he process is not to disallow all the costs." *TR. 881.* In general, Mr. Elgin's testimony explains Staff's view that the settlement strikes a fair balance, considering the relevant factors, and provides a better opportunity for the Parties, and the Commission to review the question of prudence both outside the context of a litigated proceeding and in PacifiCorp's next rate proceeding, which is required to be conducted at the end of the Rate Plan Period. Ms. Kelly testified that this also is PacifiCorp's view of the matter. *TR. 884-85.*

54 The Bench sought clarification with respect to that aspect of the prudence review deferral provision that would allow PacifiCorp, but only PacifiCorp, to take action in light of the prudence review report that the Parties commit to complete by October 1, 2001. Ms. Kelly responded for PacifiCorp that the Company might, for example, decide on the basis of the prudence review report to not include a particular asset in rate base at the time of the rate filing required to be made at the end of the Rate Plan Period. *TR. 870.* Staff Counsel pointed out in this connection that if one of the mitigation measures PacifiCorp elects to take is to sell an asset, that would have to come before the Commission as a transfer of property application. Mr. Elgin added that under Chapter 80.12 RCW, the Commission would have jurisdiction to evaluate the sale of such a property and the disposition of the assets. There would be no predetermination or avoidance of the issue of how such an asset sale ought to be reflected in rates prospectively. *TR. 871-72.*

55 Mr. Elgin's further testimony on this subject emphasizes that although there is at least implied under the settlement agreement some recovery on PacifiCorp's investment in

these assets that have not yet been reviewed for prudence, it is a reasonable allowance based on Staff's review. Specifically, Mr. Elgin testified that

there is a reasonable basis for going forward with these rates and having another process within this next five-year period to gather all the information that we need regarding the specific finding [of prudence], and then at year five, in 2005, we will bring our investigation, our report, back to the Commission for final determination. So, we are saying this is a bridge, a five-year bridge on these specific resources that the three, three, one, zero, zero rate plan will provide reasonable rates based on how the Company is booking these costs. They are in the utilities plant accounts. We are saying for this five-year period [the] rate plan provides adequate rates for the Company and provides all the Parties a sufficient window with which to evaluate the prudence decision.

56 *TR. 874.* Mr. Elgin described the process as being similar to what the Commission undertook in the early 1990's during the so-called PRAM (period rate adjustment mechanism) process approved for Puget Sound Power and Light, but implemented here under circumstances and in a fashion calculated to avoid certain pitfalls that were encountered at the end of that ratemaking experiment. *TR. 877.* Specifically, Mr. Elgin testified that it is not a simple matter of deferring prudence review for five years, but rather one that involves the intermediate step of a year-long process during which Staff, Public Counsel, and the other Parties will investigate and develop "better information" than would be possible going forward now, or simultaneously with the next rate proceeding. *TR. 879-80.* Later, Mr. Lazar testified that as a result of the settlement on this point the Commission could avoid getting "a very crude record from Public Counsel on the prudence issue" and instead will receive "an elegant piece of shelf art that will sit quietly for four years" and then be available to the Commission at the time of PacifiCorp's next rate proceeding. *TR. 916.* He concluded that although this approach means there will not be closure on the issue for several years, there will be "a much better analysis through this process" than would be possible in the context of the present case. *TR. 917.*

57 In terms of the prudence deferral, and the other deferred issues, counsel for Staff argued that the Parties have not simply declined to address the issues in this proceeding, but instead have established a process that will result in collaboration of all the Parties on significant issues, including prudence, the systems benefit charge concept, and low-income issues. *TR. 918.* Counsel asserted these will be "valuable processes" that will lead to results that are beneficial to the diverse interests of the Parties, the Commission, and the ratepayers. *Id.* Ms. Dixon stated that although it would have been the NWECC's preference to address the systems benefit charge and low-income issues in detail in the Comprehensive Stipulation, she expects to move forward with a meaningful process to consider these issues that will include good faith discussion and negotiation so that the Parties "can bring forward something that the

Commission will be comfortable approving and that implementation will occur.” *TR. 919*. Counsel for ICNU also spoke in favor of the settlement generally and, like the other parties, expressly supported the deferral of prudence review in favor of the process contemplated under the settlement in the particular circumstances of this case. Also like the other Parties, however, ICNU expressed that its support should not be viewed as supporting generally the concept of undertaking prudence review outside the context of a general rate proceeding. *TR. 931-33*. Public Counsel echoed these remarks and emphasized that

this settlement was a package that was put together during an occasionally painful process, and as with all things, there is give and take, and I also in that context want to emphasize that the prudence process is one of three [deferred matters], including the low income and the systems benefit process, and those three processes were integral to our willingness to accept this settlement. We expect those to be fruitful processes. As we’ve described here discussing prudence, I think the same commitment is there in terms of low income as well as the systems benefit charge.

TR. 933-34.

58 The Bench also posed questions concerning the continuing oversight of PacifiCorp’s rates generally, a matter of heightened concern given that the Company’s rates had not been reviewed in a general rate proceeding for fourteen years, and would not be reviewed again for another five years under the Comprehensive Stipulation. Since the settlement would not establish benchmarks against which to measure financial performance—that is, no definite capital structure, rate base, or rate of return is established via the settlement—the prospect that PacifiCorp might simply file a restatement of the settlement rates could allow PacifiCorp to avoid the burden of proving its rates are justified, shifting the burden to Staff or others to assert and prove the rates are not just and reasonable if there is to be any change going forward from that point in time. Mr. Elgin, however, testified that under the Comprehensive Stipulation, PacifiCorp would be required to justify its rates, whether restated, or proposed to be increased. *TR. 891-894*. Counsel for PacifiCorp confirmed PacifiCorp’s understanding that under the Comprehensive Stipulation, PacifiCorp would have the burden of proof to justify even a restatement of the settlement rates as of January 1, 2006. *TR. 895*. He argued that

The advantage is that the Commission doesn’t have to call the Company in and then [bear] the burden. The Company will make a filing, and it bears the burden of either showing that its existing rates are reasonable, or if it asks for increases, to carry the burden . . .

59 *Id.* Mr. Elgin, Ms. Kelley, and counsel for PacifiCorp discussed the idea that the settlement agreement captures the concept of “show cause” authority to which PacifiCorp is subject in other jurisdictions, but which is not a part of the Commission’s statutory authority. *TR. 892-897.* Both counsel and Ms. Kelly confirmed unequivocally that at the end of the Rate Plan Period, whether PacifiCorp files a restatement of rates, or for a rate increase, PacifiCorp bears the burden of proof to justify its rates against then-current measures of return, capital structure, and the myriad of other considerations that typically are at issue in general rate proceedings. *TR. 896-97.*

60 With respect to the various carve-outs, or exceptions to prohibitions against rate changes during the Rate Plan Period, as provided in Section 9 of the Comprehensive Stipulation, Mr. Elgin testified that any such changes would not allow for revenue shifts between customer classes and would be required to be revenue neutral within customer class. *TR. 902-03.* Mr. Lazar testified this was a matter of significant concern to Public Counsel and that there would be no “interclass rate rebalancing” allowed under the settlement terms. *TR. 904.* In other words, the Comprehensive Stipulation provides for rate stability over the five-year Rate Plan Period. The parties view this as an important achievement that confers significant benefits on all customer classes.

3. Commission Analysis and Determination

61 Although we approve the Comprehensive Stipulation and adopt its terms for reasons we discuss below, we also have one serious reservation that requires discussion. Our reservation concerns the deferral of significant issues for various periods of time, particularly deferral of the Commission’s review of PacifiCorp’s resource acquisitions since 1986, none of which has been tested against our prudence standard. One of these assets, Cholla, already has been on PacifiCorp’s books for nearly ten years, and two more, Craig and Hayden, will have been on the Company’s books for ten years by the time the Parties complete their prudence analyses and report to the Commission in October 2001. Under the settlement terms, any findings relative to prudence will not be explicitly reflected in PacifiCorp’s rates until at least January 1, 2006.

62 The Parties’ agreement to defer full consideration of this matter seems at odds with the Commission’s strong preference for conducting prudence review of assets not previously included in rate base when the opportunity to do so is presented by a Company’s general rate filing. See Eleventh Supplemental Order, *Petition of Puget Sound Power & Light Company For An Order Regarding The Accounting Treatment Of Residential Exchange Benefits*, Docket No. UE-920433, *Washington Utilities and Transportation Commission v. Puget Sound Power & Light Company*, Docket No. UE-920499, and *Washington Utilities and Transportation Commission v. Puget Sound Power & Light Company*, Docket No. UE-921262 (consolidated proceedings)

(September 21, 1993) at 23. Although it is true that exceptions to this practice may be allowed in appropriate circumstances, we are concerned that under the terms of the Comprehensive Stipulation there is no opportunity for five years (*i.e.*, until January 1, 2006) to actually reflect the results of a deferred prudence review in rates, even though the review itself will be concluded no later than October 1, 2001. A counterbalancing factor, however, is that the prudence review ultimately will be reflected in rate base adjustments, and rates, following a more careful and thorough evaluation by the Parties, and the Commission, than would have occurred if this proceeding were resolved now through adjudication.

63 Moreover, because the Comprehensive Stipulation is structured as it is, we are constrained from conditioning our Order here by requiring the results of the forthcoming prudence review be reflected in rates before the end of the Rate Plan Period. Such a requirement would undermine the first and second "principal objectives" the Parties enunciate as keys to their settlement. We have little doubt that this would unravel the entire agreement. Thus, we are put to the difficult task of considering whether to accept the deferred prudence review as part of an overall package that appears to strike a reasonable balance between the interests of ratepayers and shareholders, or, as a practical matter, rejecting the proposed settlement altogether.

64 On balance, we find that the overall benefits of the settlement outweigh our concerns about deferring this important issue. In addition, although not precisely done, the Parties' settlement agreement does take into account the potential that some part of PacifiCorp's acquisition costs might be disallowed following findings of imprudence. *TR. 880-82(Elgin); 884 (Kelly)*. This accounts in part for the agreement among the Parties to rates that will recover significantly fewer dollars than proposed by PacifiCorp's as-filed rates. We consider in this connection that even if 100 percent of the resource acquisition costs that remain subject to review were disallowed, that would reduce PacifiCorp's requested \$28.7 million increase in revenue requirement by about \$6 million, or 25 percent, all other things being equal. Yet, under the Comprehensive Stipulation, PacifiCorp agrees to reduce its request by approximately \$14 million.

65 It is important, too, that what we approve here is not entirely inconsistent with the Commission's prior practices. Under the PRAM ratemaking that governed Puget Sound Energy's rates for a period of time, the Company was allowed annual adjustments to rates, including resource acquisition adjustments, without prudence review. First Supplemental Order, *Washington Utilities and Transportation Commission v. Puget Sound Power & Light Company*, Docket No. UE-910626 (September 25, 1991) at 6-7. The orders approving such adjustments were careful to note that prudence review would be undertaken in the Company's next general rate case and might then lead to prospective adjustments to proposed rates. Pending that, however, the Commission allowed Puget to implement rates during several

successive annual periods based at least in part on revenue requirements attributable to asset acquisitions made without being reviewed for prudence. That is similar, though not identical, to the circumstances here.

66 We emphasize that although, by approving the settlement rates, we defer the question whether all or part of the subject assets should be explicitly authorized for inclusion in PacifiCorp's rate base, we implicitly allow PacifiCorp to recover through rates at least some of the costs attributable to the resources PacifiCorp has acquired since its last rate case. *TR. 870-875; 882.* This includes an allowance for return on some yet to be determined part of this investment. This necessarily is implied by the Parties' collective assertion that the settlement rates are fully compensatory. It follows that if PacifiCorp elects to dispose of any of these assets prior to its next general rate case, the question of how PacifiCorp will be required to treat any gain or loss from such disposition will be determined as if these resources had been explicitly included in rate base since the time they were acquired. We note this is not necessarily a consequence of the settlement. PacifiCorp's rates presumably have remained compensatory throughout the periods when these assets were acquired and put into service. In that sense, PacifiCorp can be said to have been recovering a return on these investments all along, at least until the brief moment in time between our finding here that PacifiCorp's rates no longer remain compensatory, and PacifiCorp's implementation of the new settlement rates by means of its compliance filing that is authorized and required by this Order.

67 The settlement agreements are not ideal from our perspective, but they are reasonable under the circumstances of this case. On balance, considering all pertinent facts and the standards and practices by which we regulate public utility rates, it is in the public interest to approve and adopt the Parties' stipulations and to establish rates in accordance with their terms following PacifiCorp's compliance filing and our approval of revised tariff sheets that implement the requirements of this Order.

III. FINDINGS OF FACT

68 Having discussed above all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary findings of fact. Those portions of the preceding discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.

69 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electric companies.

- 70 (2) PacifiCorp d/b/a Pacific Light and Power serves more than 117,000 electric customers in five South-Central and Southeastern Washington counties: Yakima, Walla Walla, Kittitas, Garfield, and Columbia, including the cities of Yakima, Toppenish, Sunnyside, Walla Walla, and Dayton.
- 71 (3) On November 24, 1999, PacifiCorp d/b/a Pacific Power & Light filed certain tariff revisions designed to effect a general increase in its rates for electric service. The proposed tariff revisions are listed in Appendix C to this Order.
- 72 (4) PacifiCorp's currently effective rates are insufficient to yield reasonable compensation to PacifiCorp for the services rendered.
- 73 (5) The rates proposed by PacifiCorp's as-filed tariff revisions (Appendix C to this Order) that are the subject of the Commission's complaint and inquiry in this proceeding, if implemented, would not be just and reasonable.
- 74 (6) The rates that result from the application of the Rate Spread Stipulation and the Comprehensive Stipulation together are just, reasonable, and compensatory.
- 75 (7) The rates that result from the application of the Rate Spread Stipulation and the Comprehensive Stipulation together are neither unduly preferential nor discriminatory.

IV. CONCLUSIONS OF LAW

- 76 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 77 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and all parties to, these proceedings. Title 80 RCW.
- 78 (2) PacifiCorp d/b/a Pacific Light and Power in Washington State is a public service company as defined in RCW 80.04.010, and as that term otherwise may be used in Title 80 RCW.
- 79 (3) The Rate Spread Stipulation (Appendix A to this Order) and Comprehensive Stipulation (Appendix B to this Order), considered together, fully and fairly

resolve the issues pending in this proceeding, and are in the public interest. RCW 80.01.040.

80 (4) The Rate Spread Stipulation (Appendix A to this Order) and Comprehensive Stipulation (Appendix B to this Order), considered together, result in rates for prospective application that are just, reasonable, and compensatory; and that are neither unjustly discriminatory nor unduly preferential. RCW 80.28.010, .020, .090, and .100.

81 (5) The Commission should retain jurisdiction over the subject matter and the parties to effectuate the provisions of this Order. Title 80 RCW.

V. ORDER

82 THE COMMISSION ORDERS That:

83 (1) It has jurisdiction over the subject matter and the Parties to these proceedings;

84 (2) The proposed tariff revisions (Appendix C to this Order) filed by PacifiCorp on November 24, 1999, and suspended by prior Commission order, are rejected;

85 (3) The Rate Spread Stipulation (Appendix A to this Order) and Comprehensive Stipulation (Appendix B to this Order) are approved, adopted, and made part of this Order;

86 (4) PacifiCorp d/b/a Pacific Power and Light Company, are authorized and required to make appropriate compliance filings and such other filings as are necessary to effectuate the terms of the Rate Spread Stipulation, the Comprehensive Stipulation, and this Order.

87 THE COMMISSION ORDERS FURTHER That it retains jurisdiction over the subject matter and the Parties to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this _____ day of August, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

NOTICE TO PARTIES: This is a final Order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this Order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).