

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UE-080220
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	ORDER 05
	)	
v.	)	
	)	FINAL ORDER APPROVING AND
PACIFICORP D/B/A PACIFIC	)	ADOPTING SETTLEMENT
POWER & LIGHT COMPANY,	)	STIPULATIONS; AUTHORIZING
	)	AND REQUIRING COMPLIANCE
	)	FILING
Respondent.	)	
.....	)	

1 *Synopsis: The Commission approves and adopts a Settlement Stipulation filed by the parties to this general rate case that, among other things, establishes the rates customers will pay on a prospective basis beginning October 15, 2008, for electric service provided by PacifiCorp to customers in Washington. The Commission finds reasonable the parties' agreed \$20.4 million (8.5 percent) increase in the Company's electric revenue requirement.*

**SUMMARY**

2 **PROCEEDINGS:** On February 6, 2008, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-74. PacifiCorp proposed to increase rates and charges for electric service provided to customers in the state of Washington by \$34.9 million, or 14.6 percent.

3 The proposed tariff revisions had a stated effective date of March 7, 2008. The Commission, however, suspended the filing on February 14, 2008, PacifiCorp having waived its right to have the matter considered at the Commission's regular open public meeting. The matter was set for hearing.

- 4 The Commission convened a prehearing conference at Olympia, Washington on March 6, 2008, before Administrative Law Judge Dennis J. Moss. The procedural schedule established at the conference required response cases from Staff, Public Counsel and the intervenors by August 15, 2008. On August 4, 2008, however, all of the parties in the proceeding filed a Settlement Stipulation which they propose the Commission adopt in resolution of all issues. The Commission, at the parties' request, suspended the procedural schedule and gave notice it would conduct a settlement hearing on September 25, 2008. The parties filed joint testimony in support of their Stipulation on August 11, 2008.
- 5 **PARTY REPRESENTATIVES:** Sarah E. Edmonds, in-house legal counsel, and Katherine McDowell, McDowell & Rackner P.C., Portland, Oregon, represent PacifiCorp. Simon ffitich and Sarah Shifley, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of Attorney General (Public Counsel). Robert D. Cedarbaum, Donald T. Trotter and Jonathan Thompson, Assistant Attorneys General, Olympia, Washington, represent the Commission's regulatory staff (Commission Staff or Staff).<sup>1</sup>
- 6 Melinda J. Davison and Irion Sanger, Davison Van Cleve, Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Brad Purdy, Attorney at Law, Boise, Idaho, represents The Energy Project.
- 7 **COMMISSION DETERMINATIONS:** The Commission finds on the basis of the evidence presented that PacifiCorp requires rate relief, and determines that the Settlement Stipulation results in rates that are fair, just, reasonable and sufficient. The Commission accordingly approves and adopts the Settlement Stipulation in full resolution of the issues in this proceeding.

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

## MEMORANDUM

### **I. Background and Procedural History**

- 8 On February 6, 2008, PacifiCorp filed revisions to its current tariffs designed to increase revenue by \$34.9 million (14.6 percent). The filing was based on a twelve month test year ending June 30, 2007, with adjustments for known and measurable changes through June 30, 2008. The Company's as-filed request included:
- An overall rate of return of 8.47 percent.
  - A rate of return on common equity of 10.75 percent.
  - A capital structure including 50.1 percent equity, 48.2 percent long-term debt, 1.3 percent short-term debt and 0.4 percent preferred.
  - For most rate schedules, the Company's proposal resulted in larger increases to fixed charges and energy charge components with smaller impacts on demand charges.
  - Amortization of \$12.5 million of hydro costs from 2005 which the Commission previously authorized the Company to defer in Docket UE-050684.
  - Inclusion in rates of two wind resource acquisitions known as Marengo I and Goodnoe Hills.
  - A request for a Generation Cost Adjustment Mechanism (GCAM).

- 9 The Company's direct testimony accompanied its filing, as required by law. On August 4, 2008, the Company, Staff, Public Counsel and all intervenors filed a Settlement Stipulation, which requested that the Commission approve and adopt their Settlement Stipulation in full resolution of the issues in this proceeding. On August 8, 2008, the parties filed joint testimony in support of the settlement.

### **II. Settlement Stipulation**

- 10 We summarize in this section the parties' Settlement Stipulation, which is attached to, and made a part of, this Order by this reference. If any inconsistency between our summary here and the Settlement Stipulation is perceived, the express terms of the Settlement Stipulation control.

**A. Revenue Requirement**

- 11 The parties propose an increase in revenues from Washington customers of \$20.4 million (8.5 percent) effective October 15, 2008.<sup>2</sup> The rate increase proposed to recover this revenue has two components: an increase to base rates and a temporary surcharge. Base rates will recover \$18.4 million (7.7 percent) of the revenue increase.<sup>3</sup> The \$2 million annual surcharge (0.8 percent) is to recover over approximately 3 years the amortization of \$6.25 million in hydro deferral costs related to low hydro conditions in 2005.
- 12 The joint parties testify that the proposed revenue increase results in rates that are fair, just, reasonable and sufficient.

**B. Rate Spread**

- 13 The rate spread for the \$18.4 million increase in base rates is shown in Appendix A to the stipulation. Appendix A does not reflect the hydro deferral amount.
- 14 The rate spread shown in Appendix A can be summarized as follows:<sup>4</sup>
- No increase for lighting schedules.
  - 85 percent of the overall average percentage increase for small general service.
  - The balance of the revenue requirement is spread equally among all other classes.
- 15 The hydro deferral amount is spread on an equal percentage of revenue basis to all rate schedules and will be applied as a cents per kWh surcharge.<sup>5</sup> The parties state that the rate spread, including the hydro deferral, is supported by the cost to serve each class and other factors that the Commission has considered in making rate spread decisions, such as gradualism, rate stability and perceptions of equity.<sup>6</sup>

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<sup>2</sup> Stipulation, ¶ 10.

<sup>3</sup> Stipulation, ¶ 11.

<sup>4</sup> Stipulation, ¶ 15.

<sup>5</sup> Stipulation, ¶ 16.

<sup>6</sup> Exhibit JT-1T at 6:12-15.

**C. Rate Design**

- 16 The Settlement accepts the Company's rate design proposal as set forth in the Company's testimony with three exceptions:<sup>7</sup>
- The residential basic charge will increase to \$6.00 from \$5.25 instead of the Company proposed increase to \$7.00.<sup>8</sup>
  - The primary voltage discount for Schedule 48T will be \$0.75/kW.<sup>9</sup>
  - All other billing components for Schedule 48T will be increased on an equal percentage basis.<sup>10</sup>
- 17 The Company agrees to consult with ICNU and other interested parties to review Schedule 48T's cost of service and rate design issues. Such consultation shall be initiated sufficiently in advance of the Company's next general rate case to allow time to consider inclusion of any recommendations in the general rate case filing.<sup>11</sup>
- 18 The joint parties testify that the rate design changes are supported by the consideration of gradualism while reflecting costs within each customer class.<sup>12</sup>

**D. Other Customer Charges**

- 19 The Settlement adopts the Company's proposal for changes to Rule 8 and schedule 300 charges as set forth in the Company's direct testimony except for the following:<sup>13</sup>
- The Company will not increase its Field Visit Charge; it will remain at \$15.00.
  - The Company will increase Reconnection Charges to the following levels:
    - Normal Business - \$25.00<sup>14</sup>

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<sup>7</sup> Griffith, Exhibit WRG-1T at 4:7-7:12; Stipulation, ¶ 15.

<sup>8</sup> Schedule 16 Residential Service; Exhibit WRG-1T at 4:23-5:1.

<sup>9</sup> Schedule 48T Large General Service – 1,000 kW and Over.

<sup>10</sup> Schedule 48T Large General Service – 1,000 kW and Over.

<sup>11</sup> Stipulation ¶ 14.

<sup>12</sup> Exhibit JT-1T at 7: 9-10.

<sup>13</sup> Rockney, Exhibit CAR-1T at 2:11-11:2; Stipulation, ¶ 17.

- Evening - \$50.00<sup>15</sup>
- Weekend and Holiday - \$75.00<sup>16</sup>

**E. Authorized Return on Rate Base**

- 20 The Settlement maintains the Company's current authorized rate of return at 8.060 percent, as approved in Docket UE-061546.<sup>17</sup> The Settlement does not separately identify the individual cost of capital components or capital structure.

**F. Low Income Issues**

**i. Low Income Bill Assistance**

- 21 The Company agrees to increase the Low Income Bill Assistance ("LIBA") Program credit by a percentage amount equal to the overall percentage change in residential rates. All of the increase will be used to increase the Schedule 17 energy credit.<sup>18</sup> LIBA is funded by other customers through Schedule 91.

**ii. Low Income Weatherization**

- 22 On or before October 15, 2008, the Company will schedule a meeting with Low Income and Demand-Side Management Advisory Groups, to discuss and consider an increase to the Company's funding of the low-income weatherization program. The Company and The Energy Project will work jointly to develop a presentation for the group that outlines key considerations on this issue, with the goal of reaching a consensus recommendation. Based on the feedback from the Advisory Group members, the Company will make a filing with the Commission by November 15, 2008, to initiate a proceeding to address this issue.<sup>19</sup>

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<sup>14</sup> This charge is currently \$20 (8am to 4pm).

<sup>15</sup> This charge is currently \$40 (4pm to 7am).

<sup>16</sup> This charge is currently \$40.

<sup>17</sup> *Utilities and Transp. Comm'n v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-061546, Order 08 (Jun. 21, 2007) at 6 (table). The Parties understand that the Commission has the right to change this rate of return in a future proceeding.

<sup>18</sup> Stipulation, ¶ 18.

<sup>19</sup> Stipulation, ¶ 20.

**G. Next General Rate Case**

23 The Company will not file a new general rate case until after January 31, 2009.<sup>20</sup>

**H. Generation Cost Adjustment Mechanism**

24 The Company agrees to withdraw its request for a Generation Cost Adjustment Mechanism (“GCAM”) and will not propose a GCAM or “similar mechanism” in its next general rate case or by any other means until after its next general rate case.<sup>21</sup> “Similar mechanism” is broadly defined to include any power cost adjustment mechanism, proposal for a power cost only rate case, or similar item.

**I. Test Period Accounting**

25 The Settlement requires the Company to consult with Staff and other interested parties on the accounting presentation, test period conventions, and appropriate documentation to demonstrate the prudence of new resources for the purpose of incorporating the changes into the Company’s next GRC filing.<sup>22</sup> One or more parties initially considered challenging the Company’s filing in this proceeding because it did not conform to the Commission’s standard practices.

**J. Requested Findings**

26 The Settlement calls for the Commission to make the following findings:<sup>23</sup>

- The Company’s Goodnoe Hills and Marengo I wind projects are prudent and used and useful for service to Washington customers.
- The net power cost (“NPC”) baseline for the West Control Area for the purpose of reporting and historical comparisons will be \$430,880,359 and the Washington-allocation will be 96,757,278.<sup>24</sup> However, the parties do not agree to use the NPC for any other purpose, including a power cost deferral or hydro deferral.

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<sup>20</sup> Stipulation ¶ 22.

<sup>21</sup> Stipulation ¶ 23.

<sup>22</sup> Stipulation ¶ 24.

<sup>23</sup> Stipulation ¶¶ 25-27.

<sup>24</sup> Ms. Kelly testified during the settlement hearing that these negotiated amounts represent annual costs for the test year in this proceeding.

### III. Discussion and Decision

27 WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.”

28 Thus, the Commission considers the individual components of the Settlement Stipulation under a three-part inquiry. We ask:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.
- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

29 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to condition(s).
- Reject the proposed settlement.

30 In general, and as discussed below, we find the settlement terms proposed by the parties to be consistent with law and policy, and to resolve reasonably the issues in this proceeding. The parties made compromises relative to their respective litigation positions to arrive at end results that are fair, just and within an acceptable range of possible outcomes supported by the evidence in the record.

31 While we acknowledge the opposition to any rate increase expressed by members of the public through oral and written comments, our decisions must be made in accordance with law, policy and the factual record before us. The Commission’s mission is essentially one of determining an appropriate balance between the needs of the public to have safe and reliable electric service at reasonable rates and the financial ability of the utility to provide such services. Thus, the results of our orders in proceedings such as this must be to establish rates that are, in the words of our



governing statutes, “fair, just, reasonable and sufficient.”<sup>25</sup> This means rates that are fair to customers and to the Company’s shareholders; just in the sense of being based solely on the record developed following principles of due process of law; reasonable in light of the range of possible outcomes supported by the evidence and; sufficient to meet the needs of the Company to cover its expenses and attract necessary capital on reasonable terms.

- 32 In this context, we discuss the parties’ testimony in greater detail and make our determinations concerning the proposed Settlements.
- 33 Staff supports this Settlement as being in the public interest because it produces reasonable rates and is not precedential except as to the finding of prudence with respect to the Goodnoe Hills and Marengo I wind projects. Staff states that it extensively analyzed the Company’s filing, including reviewing the Company’s responses to over 500 data requests, retaining an expert on cost-of-capital issues, and visiting the Company’s Portland offices to review documents and pose questions to Company personnel about the filing. Based on its investigation, Staff concludes the 8.5 percent rate increase is reasonable.
- 34 The Company’s agreement to not file a general rate case until after January 31, 2009, while not a significant delay, does preclude the possibility of PacifiCorp filing its next rate case prior to the end of the suspension period in the present docket. PacifiCorp witness Ms. Kelly testified at the settlement hearing that PacifiCorp plans to file its next general rate case in February 2009. Staff states it will use this brief respite to engage in focused discussions with the Company and parties on certain issues agreed to in the Settlement, including one planned to discuss the manner in which the Company presents rate cases. Staff says that PacifiCorp’s agreement to discuss and implement improvements to its rate case presentation is a welcome development which will enhance all parties’ ability to review the Company’s future rate requests. Public Counsel stated at hearing its support for this settlement term. The results of these discussions on accounting and prudence matters will not bind the Commission or any party to any particular position or decision on such matters.
- 35 ICNU testifies to its belief that this Settlement is a reasonable compromise of the parties’ positions. ICNU states it is in its member’s interest to avoid litigation when possible and to ensure that the Company refrains from a new rate case filing until February 2009. It is especially important to ICNU's members to avoid another

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<sup>25</sup> RCW 80.28.010(1) and 80.28.020.

dispute over a power cost recovery mechanism in this case as well as the next general rate case.

- 36 Public Counsel believes that this Settlement Stipulation is in the interest of PacifiCorp's residential and small business customers because it minimizes the rate impact for these classes while allowing the Company a sufficient revenue increase to cover additional costs. Public Counsel cites the "substantially smaller overall rate increase than the Company's original request" and the rate spread and rate design agreements as favorable aspects of the settlement.<sup>26</sup> Public Counsel also testifies to its belief that the withdrawal of the Company's GCAM proposal is in the public interest and that it is instead preferable to review PacifiCorp's cost requests in a general rate case where the Company's earnings as well as its costs are considered.
- 37 The Energy Project testifies that the Settlement reasonably balances the needs of the Company with those of its customers, particularly low income customers for whom any increase in rates makes maintaining access to essential services more difficult. The Energy Project states that while low-income customers will not completely avoid being affected by the proposed rate increase, the Company's increase in funding for the LIBA program will at least offset that impact for the current level of LIBA enrollment, thus better maintaining the program's effectiveness for those the Energy Project can serve. The Energy Project "also appreciate[s] the Company's willingness to consider a more effective application of its low-income energy efficiency funding."<sup>27</sup> Mr. Ebert, The Energy Project's witness, testified at hearing that PacifiCorp's current contribution of 50 percent of the costs of cost-effective measures is the lowest contribution from a utility among the regional utilities with which he works. Ms. Kelly testified that the Company's is committed to make improvements in this program and has already scheduled a meeting with the Low Income and Demand Side Management Advisory Groups for October 7, 2008.
- 38 Finally, PacifiCorp testifies that while it believes its as-filed revenue increase was well supported and reasonable, it recognizes that settlement can replace the cost and risk of litigation with efficiency and certainty. PacifiCorp recognizes "a clear benefit to implementing an appropriate revenue increase [effective October 15, 2008,] before the end of the suspension period in January 2009, avoiding the delay associated with the full rate case hearing and decision-making process."<sup>28</sup>

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<sup>26</sup> Exhibit JT-1T at 13:14-16.

<sup>27</sup> *Id.* at 14:20-22.

<sup>28</sup> *Id.* at 15:2-8.

39 In sum, all parties to this proceeding support the settlement because it produces reasonable rates for the various customer classes while providing the Company a sufficient increase to ensure that it will continue to be able to provide reliable service. We conclude that the Settlement is lawful and consistent with public policy. The evidence supports the Settlement terms as being reasonable resolutions of the issues. Considering all of the information available in the record, we find and conclude that our approval and adoption of the Settlement is in the public interest.

### **FINDINGS OF FACT**

40 Having discussed above in detail the evidence received in this proceeding concerning all material matters the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

- 41 (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 electrical companies.
- 42 (2) PacifiCorp is a “public service company” and an “electrical company” as those terms are defined in RCW 80.04.010 and as those terms otherwise are used in Title 80 RCW. PacifiCorp is engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.
- 43 (3) The parties propose to resolve the issues in this proceeding via the Commission’s approval and adoption of their Settlement Stipulation filed on August 4, 2008, which is attached to, and made a part of, this Order.
- 44 (4) The existing rates for electric service provided in Washington by PacifiCorp are insufficient to yield reasonable compensation for the services rendered. PacifiCorp requires prospective relief with respect to the rates it charges for electric service provided in Washington.
- 45 (5) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation that is attached to this Order results in rates for PacifiCorp that are fair, just, reasonable, and sufficient.

- 46 (6) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation are neither unduly preferential nor discriminatory.
- 47 (7) The Commission's approval and adoption of the Settlement Stipulation attached to, and discussed in, the body of this Order are in the public interest.

### CONCLUSIONS OF LAW

48 Having discussed above all matters material to this decision, and having stated its findings, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 49 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- 50 (2) The rates proposed by tariff revisions filed by PacifiCorp on February 6, 2008, and suspended by prior Commission order, were not shown to be fair, just or reasonable and should be rejected.
- 51 (3) PacifiCorp's existing rates for electric service and natural gas service provided in Washington are insufficient to yield reasonable compensation for the service rendered.
- 52 (4) PacifiCorp requires relief with respect to the rates it charges for electric service and natural gas service provided in Washington.
- 53 (5) The Commission determines that the rates resulting from adoption of the Settlement Stipulation filed by the parties to this proceeding are fair, just, reasonable, and sufficient rates that are to be observed and in force under PacifiCorp's tariffs prospectively from an effective date of October 15, 2008, for electric and natural gas service the Company provides to customers in Washington.
- 54 (6) PacifiCorp should have the opportunity to earn an overall rate of return of 8.060 percent.

- 55 (7) PacifiCorp should be authorized and required to make a compliance filing to recover its revenue deficiency of \$20,397,000 for electric service, consistent with the terms of this Order.
- 56 (8) The costs of PacifiCorp's investments in the Goodnoe Hills and Marengo I wind generation projects were prudently made and reasonable, and should be allowed for recovery in rates.
- 57 (9) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
- 58 (10) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

**ORDER**

THE COMMISSION ORDERS THAT:

- 59 (1) The proposed tariff revisions PacifiCorp filed on February 6, 2008, which were suspended by prior Commission order, are rejected.
- 60 (2) The Settlement Stipulations attached and incorporated into this Order by prior reference, are approved and adopted.
- 61 (3) PacifiCorp is authorized and required to file tariff sheets following the effective date of this Order that are necessary and sufficient to effectuate its terms. The required tariff sheets must be filed at least three business days prior to their stated effective date, October 15, 2008.
- 62 (4) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.

- 63 (5) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective October 8, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

**NOTICE TO PARTIES: This is a Commission Final Order. 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 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.**