

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)
PACIFICORP d/b/a PACIFIC POWER &) DOCKET NO. UE-140617
LIGHT COMPANY)
Hydro Investment Adjustment,) PETITION TO INTERVENE AND
Advice No. 14-03.) OPPOSITION OF THE INDUSTRIAL
CUSTOMERS OF NORTHWEST
UTILITIES

I. Petition to Intervene

1 Pursuant to WAC § 480-07-355, the Industrial Customers of Northwest Utilities (“ICNU”) hereby petitions the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) for leave to intervene in opposition in the above-referenced Docket as an Intervenor with full party status, as described in WAC § 480-07-340. The business address of ICNU is:

Industrial Customers of Northwest Utilities
818 SW 3rd Avenue, #266
Portland, OR 97204

2 ICNU will be represented in this proceeding by Davison Van Cleve, P.C. All documents relating to these proceedings should be served on ICNU’s attorneys at the following address:

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3 The administrative rules at issue are WAC §§ 480-07-340 through 355. The Commission permits intervention when a petitioner demonstrates a substantial interest in the proceeding, or the intervention is in the public interest.^{1/} ICNU is an incorporated, non-profit association of large industrial electric customers in the Pacific Northwest. A list of ICNU members is included as Attachment A. As indicated on Attachment A, many of ICNU's members are customers of PacifiCorp (or the "Company"), including the Packaging Corporation of America, f/k/a Boise White Paper, L.L.C. ("PCA"), PacifiCorp's largest customer in Washington. ICNU has a substantial interest in PacifiCorp's request to implement an unprecedented single-issue rate increase, or, in the alternative, to defer for later recovery in rates the costs associated with its Merwin Fish Collector Project. PacifiCorp estimates that inclusion of these costs in rates would increase the Company's rate base by \$58.4 million, and would result in an immediate rate increase of approximately .5% for Washington customers, all outside of the rate case process.^{2/} The inclusion of these costs in rates would substantially and directly affect those of ICNU's members that are served by PacifiCorp in Washington. ICNU requests leave to intervene in this Docket to represent its members' interests, which are directly affected by PacifiCorp's proposals.

^{1/} WAC § 480-07-355(3).

^{2/} PacifiCorp is expected to file a general rate increase at the Commission in the May 2014 timeframe.

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ICNU's legal counsel has extensive experience in proceedings before the Commission involving PacifiCorp's rates. ICNU indirectly participated in PacifiCorp's most recent general rate case (UE-130043) as PCA, and has directly participated in other PacifiCorp rate proceedings, including UE-991832, UE-032065, UE-050684, UE-060669, UE-061546, UE-080220, UE-090205, UE-100749, and UE-111190. ICNU's intervention in this proceeding will assist the Commission in resolving the issues and will not unreasonably broaden the issues, burden the record, or delay this proceeding.

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As described above, ICNU has a direct and substantial interest in this proceeding that will not be adequately represented by any other party, and may be affected by any Commission determination made in connection with this proceeding. It is in the public interest to allow ICNU to intervene in this proceeding.

II. Opposition to PacifiCorp's Petition

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PacifiCorp's advice filing represents a request for extraordinary measures for ordinary costs. Taken with the Company's other recent filings, it appears that PacifiCorp wishes to be granted extraordinary rate relief when it incurs a certain level of costs between rate cases.^{3/} This steady diet of tariff riders and requests for deferred accounting is inexplicable given that ICNU understands the Company to be preparing a general rate case that is expected to be filed in the May 2014 timeframe. The present filing is inconsistent with Commission standards regarding single-issue ratemaking and with Commission precedent regarding deferred

^{3/}

For example, after ignoring the Commission's guidance that a power cost mechanism must include reasonable deadbands and sharing bands, and making a failed argument in Docket No. UE-130043 that the Company should recover all power costs on a dollar-for-dollar basis, the Company filed for permission to create a deferred account in Docket No. UE-131384 that would achieve the same dollar-for-dollar recovery outside of a rate case for its power costs related to the recent Colstrip outage. The Company has also filed a Petition for a Deferred Accounting to achieve this same result for costs relating to what it claims is a "low hydro" year in Docket UE-140094. These requests are currently pending before the Commission.

accounting petitions, and it should be rejected by the Commission or, at the very least, suspended and set for hearing.

7 In addition, contrary to the Company’s intimation that the prudence of this facility has already been determined, neither Staff nor, to our knowledge, any party conducted a prudence review of the Merwin Fish Collector during the 2013 general rate case.^{4/} Further, the Commission, while finding other capital additions prudent, did not consider or opine on the prudence of this facility.^{5/} Thus, the Company’s statement that “no party challenged the prudence” of the facility does not mean that it has met the prudence standard for inclusion of costs in rates, demonstrating that if the petition is not rejected then, at the very least, it must be set for review. PacifiCorp’s prudence argument turns prudency review on its head, stating, essentially, that if there is no opposition to the prudency of an expenditure, then it is deemed prudent.

A) The Commission Should Reject PacifiCorp’s Rate Base-Tracking Tariff Rider

8 The Commission has repeatedly stated: “[i]n particular, we disfavor and typically avoid single-issue ratemaking”^{6/} The Commission has called mechanisms for inclusion of capital projects in rate base between rate cases “extraordinary relief,” and requires the Company to present a “clear and convincing showing that the Company will be denied any reasonable opportunity to earn its authorized rate of return without extraordinary relief.”^{7/} By definition, PacifiCorp’s request for a tariff rider that will implement an immediate rate increase to reflect the addition of the allegedly now “used and useful” Merwin Fish Collector is single-issue

^{4/} WUTC v. PacifiCorp, Docket No. UE-130043, Brief of Commission Staff at P. 141 n. 220 (Oct. 1, 2013);

^{5/} WUTC v. PacifiCorp, Docket No. UE-130043, Order 05 at P. 266 (Dec. 4, 2013).

^{6/} E.g., WUTC v. Puget Sound Energy, Inc., Docket Nos. UE-060266 and UG-060267, Order 08 at 37 (Jan. 5, 2007).

^{7/} Id. at P. 39.

ratemaking. PacifiCorp's Petition contains no showing that, absent extraordinary relief, it will be denied "any reasonable opportunity to earn its authorized rate of return."

9 To the contrary, while the Commission recently opined that there was a need to "address some of the impacts of regulatory lag on PacifiCorp . . . ," it was only four months ago that PacifiCorp was granted a rate increase that included the extraordinary use of end of period rate base, which reduced the Company's regulatory lag by approximately six months.^{8/} The Commission further permitted the Company to make extraordinary pro-forma adjustments to put three major hydro projects and the costs of an upgrade to its Jim Bridger generating station into rate base, even though these were not in service during the test year. These measures were explicitly taken to significantly reduce regulatory lag.^{9/} The Company has made no showing whatsoever that these substantial and extraordinary mechanisms have not reduced any regulatory lag it may experience to a reasonable level that simply promotes good utility management. Nor has the Company made any showing, in the face of the extraordinary relief it has recently received, that it is presently denied any opportunity to earn its authorized rate of return.

10 The Commission has embraced the concern that allowing "piecemeal" out-of-period adjustments will encourage all utilities to "jump on the bandwagon," both flooding the Commission with new petitions and eroding the Commission's ability to maintain proper regulatory oversight.^{10/} The Commission should expect that all rational utility managers will make constant filings to true-up their rate base through tariff riders every time any new plant is put in service, if the Commission goes down the path of accepting such mechanisms.^{11/}

^{8/} Docket No. UE-130043, Order 05 at PP.178, 184.

^{9/} Id. PP. 186, 200-01.

^{10/} WUTC v. PSE, Docket Nos. UE-060266 and UG-060267, Order 08 at P .47.

^{11/} This suggests that PacifiCorp will continue down its path of nearly annual rate cases plus deferred accounting petitions.

PacifiCorp has made no showing that it needs extraordinary relief, and the Commission should protect customers and the regulatory process by denying its petition.

B) The Commission Should Not Permit a Deferred Accounting Mechanism in This Matter

11 PacifiCorp has not demonstrated that the costs of the Merwin Fish Collector meet the standards for deferred accounting. Because deferred accounting essentially authorizes retroactive recovery of costs in future rates – and therefore reduces the risk utilities are expected to bear under standard ratemaking principles – the Commission has determined that deferred accounting, like out-of-period rate base additions, should be authorized only in “extraordinary circumstances.”^{12/} For example, the Commission rejected Puget Sound Energy, Inc.’s proposal to defer \$8.4 million in settlement payments it incurred related to litigation associated with Colstrip because “these costs [were] not out of the ordinary,” and therefore, they should not “be afforded any extraordinary treatment.”^{13/}

12 PacifiCorp makes no claim nor any showing that the Merwin Fish Collector is extraordinary or unforeseeable. Rather, taken with its other recent petitions, it appears that PacifiCorp is attempting to turn deferred accounting into an ordinary, rather than an extraordinary, tool for exacting dollar-for-dollar recovery of any costs that it incurs during the short windows between its requests for general rate increases. PacifiCorp can currently earn a generous 9.8% return for its shareholders as compensation for bearing the risks involved in running a utility. If the Company is permitted to constantly shift all of its risk between rate cases to ratepayers, the return on equity those ratepayers bear should be reduced.

^{12/} WUTC v. PacifiCorp, Docket No. UE-050684, Order 04 ¶ 305 (April 17, 2006).

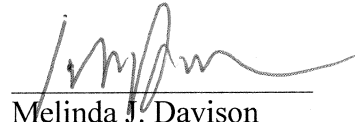
^{13/} WUTC v. PSE, Docket Nos. UE-090704/UG-090705, Order 11, PP. 212-16 (April 2, 2010).

WHEREFORE, ICNU respectfully petitions the Commission for leave to intervene in this proceeding, and requests that the Commission dismiss or suspend and set for hearing the Petition of PacifiCorp for extraordinary relief.

Dated this 25th day of April, 2014.

Respectfully submitted,

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of Northwest Utilities

ATTACHMENT A

INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

Air Liquide
Air Products
AkzoNoebel
Amcor Rigid Plastics
Axiall, Inc.
Boeing
*Boise Cascade, Inc.
*Packaging Corporation of America
Certain Teed Gypsum & Ceiling Manufacturing (BPB)
ConAgra Foods
Dyno Nobel, Inc.
Eka Chemicals, Inc.
Emerald Performance Materials
Evraz, Inc.
*Freres Lumber Co.
*Georgia-Pacific
Inland Empire Paper Co.
Intel Corp
*International Paper
JR Simplot
*Kapstone Kraft Paper
Linde, Inc.
Microsoft Corporation
*Norpac Foods
*Northwest Hardwoods
*PCC Structurals, Inc.
Ponderay Newsprint
PPG Industries Inc.
REC Solar Grade Silicon LLC
Schnitzer Steel
Shell Oil Products US
Simpson Paper & Timber
SP Fiber Technologies
Tesoro Refining and Marketing Co.
*Timber Products
*Wah Chang
West Linn Paper Company
*Weyerhaeuser

**Denotes PacifiCorp Customers*