

ORDER NO. 10-022  
ENTERED 01/26/10

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 210

In the Matter of  
PACIFICORP, dba PACIFIC POWER  
Request for a General Rate Revision.

ORDER

DISPOSITION: STIPULATIONS APPROVED

**I. INTRODUCTION**

This order addresses PacifiCorp, dba Pacific Power's (Pacific Power or the Company) request for a general rate revision filed with the Public Utility Commission of Oregon (Commission) on April 2, 2009. In this order, we adopt two stipulations: a contested revenue requirement stipulation, and an uncontested rate spread and rate design stipulation. These stipulations result in a 4.6 percent increase to Pacific Power's rates.

**II. BACKGROUND AND PROCEDURAL HISTORY**

Pacific Power is an electric company and public utility in the State of Oregon within the meaning of ORS 757.005, and is subject to the Commission's jurisdiction with respect to the prices and terms of electric service to its Oregon retail customers. The Company provides electric service to approximately 580,000 retail customers in Oregon.

On April 2, 2009, Pacific Power filed Advice No. 09-008, an application for revised tariff schedules. In its application, the Company requested a revenue increase of \$92.1 million, or 9.1 percent overall.<sup>1</sup> Pacific Power stated that the primary driver for its rate request was new investment, including, among other things, the addition of two natural gas plants, three wind resources to serve customers, investment in transmission and distribution plant, and investment in hydroelectric plant to conform with various hydro relicensing agreements.<sup>2</sup>

<sup>1</sup> The revised tariffs proposed a 6.3 percent rate increase for the residential rate class, a 13.7 percent increase for the small non-residential class, a 13.7 percent increase for the large non-residential rate class, a 17.5 percent increase for the irrigation class, and a 17.5 percent increase for lighting and signal customers.

<sup>2</sup> Certain portions of the Company's testimony in support of its application will be discussed in more detail below.

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At its April 21, 2009, public meeting, the Commission suspended the proposed tariff revisions for a period of nine months pursuant to ORS 757.215.<sup>3</sup> On April 21, 2009, a prehearing conference was held before Administrative Law Judges Sarah K. Wallace and Lisa D. Hardie and a procedural schedule was established.

During the course of the proceeding, the following parties were granted leave to intervene as parties: the Industrial Customers of Northwest Utilities (ICNU); Fred Meyer Food Stores and Quality Food Centers, Divisions of the Kroger Co. (Kroger); the Klamath Water Users Association (KWUA); and Portland General Electric Company (PGE). The Citizens' Utility Board (CUB) intervened as a matter of right under ORS 774.180.

Public comment hearings were held in Bend, Oregon, on May 27, 2009; in Portland, Oregon, on June 9, 2009; and in Medford, Oregon, on June 18, 2009. Extensive testimony was filed addressing the Company's application prior to the filing of the stipulations, including three rounds of testimony by Pacific Power from thirteen Company witnesses;<sup>4</sup> as well as a round of testimony by intervenors and the Staff of the Public Utility Commission of Oregon (Staff). Staff presented testimony from thirteen witnesses; ICNU presented testimony from two witnesses; ICNU and CUB presented joint testimony from two witnesses; and Kroger and KWUA each presented testimony from one witness.

Settlement conferences took place on June 24, 2009, August 20, 2009, and September 10, 2009.

On September 25, 2009, two stipulations were filed addressing the issues in this docket: a unanimous stipulation addressing rate spread and rate design issues, and a non-unanimous stipulation addressing revenue requirement issues. The sole party objecting to the revenue requirement stipulation was ICNU. Together, these stipulations addressed all issues raised by Pacific Power's filing.

On October 21, 2009, ICNU filed objections to the revenue requirement stipulation, along with supporting testimony. The parties to the revenue requirement stipulation filed reply testimony on October 29, 2009. The parties waived cross-examination and oral argument and filed briefs addressing contested issues on November 25, 2009, and December 10, 2009.

### III. DISCUSSION

We divide our discussion into two parts. We first address the revenue requirement stipulation (Stipulation), beginning with an overview of the Joint Parties'

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<sup>3</sup> See Order No. 09-150.

<sup>4</sup> Pacific Power filed opening testimony with its application on April 2, 2009, supplemental testimony pursuant to Commission ruling on June 5, 2009, and reply testimony on August 31, 2009. On June 15, 2009, Pacific Power filed supplemental testimony relating to its Transition Adjustment Mechanism (TAM), but the TAM issues were ultimately resolved as part of a stipulation in another docket. See Pacific Power's Notice of Resolution of Issues in Docket UE 210 in Docket UE 207 Stipulation (Sept 30, 2009).

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Power's Oregon jurisdiction. Together, these proposed adjustments would reduce the stipulated rate increase by approximately \$21 million.<sup>24</sup>

*a. Non-Union Increases; Bonus and Incentive Compensation*

*(1) Parties' Positions*

ICNU argues that the Stipulation includes non-union wage and salary increases that should be removed because they are unnecessary to retain employees in the current economic climate. According to ICNU, it is "unconscionable to increase utility rates so that utility employees can receive wage increases at the expense of utility customers."<sup>25</sup> The removal of wage and salary increases would reduce the stipulated rate increase by \$1.8 million. ICNU also asserts that the poor economy warrants the removal of all bonus and incentive compensation from rates, which would reduce the stipulated rate increase by an additional \$10.2 million.<sup>26</sup>

The Joint Parties assert that the wage and salary increases included in the stipulated rates are prudently incurred, required to maintain a competent workforce, and are fully supported by the record. The Joint Parties also note that Pacific Power did not include any increase to non-union wages for the 2010 test year, making the stipulated labor costs all the more reasonable.<sup>27</sup>

According to the Joint Parties, the only basis given for ICNU's adjustment is the state of the economy, an assertion that is misplaced because the Stipulation already takes the state of the economy into account. In testimony supporting the Stipulation, the Joint Parties state:

The Parties recognize that the current economic climate has placed significant financial pressure on the Company's customers. The terms of the Stipulation reflect this reality. Although the Company had not filed a general rate case in three years prior to filing this rate case, it accepted many of the adjustments proposed by Staff, CUB, and ICNU, and lowered its requested rate increase from 9.1 percent to 4.6 percent—nearly one-half of its original request. The compromises reflected in the agreement were made with a full understanding of the current economy.<sup>28</sup>

<sup>24</sup> Removing non-union wage and salary increases would reduce the stipulated rate increase by \$1.8 million; removing all bonus and incentive compensation would reduce the rate increase by \$10.2 million; modifying the allocation of payroll costs in accordance with ICNU's recommendations would reduce the rate increase by another \$9.0 million. ICNU Opening Brief at 25 (Nov 25, 2009).

<sup>25</sup> ICNU/600, Blumenthal/8-9. ICNU does not recommend excluding wage increases for union employees because the Company is contractually obligated to increase these wages. *Id.* at 8.

<sup>26</sup> ICNU/600, Blumenthal/8-9.

<sup>27</sup> Joint Parties Opening Brief at 9-10 (Nov. 25, 2009) (citing Joint Reply/200, Garcia, *et al.*/12).

<sup>28</sup> Joint/200, Garcia, *et al.*/4.

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In any case, the Joint Parties assert, ICNU's only evidentiary support for freezing non-union wages is inconsistent. On one hand, ICNU asserts that the ailing economy justifies a freeze on non-union employee wages; on the other hand, ICNU asserts that the improving state of the economy renders the Stipulation's notional return on equity too high.<sup>29</sup>

The Joint Parties also assert that ICNU's proposed adjustment, even if warranted, is calculated incorrectly. ICNU's witness Ellen Blumenthal asserts that she removed a 3.8 percent increase that occurred in January 2009,<sup>30</sup> but her adjustment actually removes non-union wage and salary increases for a total of 3.5 years, from the July 2007 beginning of the base period through the December 2010 end of the test period.<sup>31</sup>

With respect to ICNU's assertions that all bonus and incentive compensation should also be removed from the stipulated rates, the Joint Parties point out that in opening testimony, Staff proposed removing 100 percent of officer bonuses and 50 percent of the annual incentive plan bonuses, a traditional sharing percentage, and ICNU proposed a nearly identical adjustment. The Joint Parties assert that the Stipulation already reflects Staff's adjustment. Finally, the Joint Parties complain that ICNU's current position on bonus and incentive compensation was raised only after the Stipulation was filed and should have been raised earlier. The Joint Parties agree the Stipulation reflects a traditional and appropriate adjustment to bonus and incentive compensation, and that no further adjustments should be made.

(2) *Resolution*

We note at the outset that it is not possible to determine from the Stipulation precisely which stipulated adjustments to wages, salaries, and bonuses are included under the Stipulation's broad heading of "A&G adjustments." The Stipulation includes a total of \$16.3 million in adjustments to Pacific Power's initial request for A&G expenses, a category that includes not only the adjustments contested by ICNU, but adjustments to other expenses as well, such as 401(k) expense, insurance expense, and uncollectible expenses.<sup>32</sup> Our responsibility is not to examine any of these specific cost categories in detail, but rather to determine whether the Stipulation as a whole results in just and reasonable rates.

Even reviewing this issue narrowly, however, we find that the Joint Parties have adequately supported their position with respect to wages, salaries, bonus, and incentive plans. The Company's non-union wage and salary expenses are reasonable and include no additional increases for 2010. We find that the Joint Parties have also

<sup>29</sup> Joint Parties' Opening Brief at 9 (citing ICNU/500, Gorman/4).

<sup>30</sup> See ICNU/600, Blumenthal/8.

<sup>31</sup> Joint Reply/200, Garcia, et al./12. Staff also testified that it does not support ICNU's proposed adjustment because of "incorrect assumptions in her calculations of historic and appropriate test year wage & salary levels." Joint/100, Garcia, et al./10.

<sup>32</sup> See Joint /100, Garcia, et al./6. Staff's opening testimony recommended reducing Pacific Power's requested A&G by \$16.8 million. See Joint /100, Garcia, et al./10

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adequately supported their position with respect to bonus and incentive payments. Pacific Power explained the purpose behind its bonus and incentive programs in detail,<sup>33</sup> and the evidence shows that the stipulated adjustments to these programs generally reflect Staff's proposal (and ICNU's original similar proposal) that 100 percent of officer bonuses and 50 percent of annual incentive plan bonuses be removed from rates. This sharing arrangement has traditionally been supported by the Commission, and we see no reason to deviate from that tradition here.<sup>34</sup>

While ICNU's concerns about the economy are well taken, they do not, by themselves, demonstrate the impropriety of the Joint Parties' positions on wage, salary, bonus, and incentive expenses. All parties concede that the economy is struggling, but the evidence shows that the stipulated rate increase represents a significant reduction from the increase originally sought by Pacific Power. The Joint Parties assert that this reduction was implemented specifically with the state of the economy in mind.<sup>35</sup> Given this assertion, we find the stipulated compromises on A&G adjustments to be reasonable and deny ICNU's objections.

*b. Allocation of Labor Costs*

*(1) Parties' Positions*

ICNU argues that the Stipulation allocates too high a share of the Company's payroll costs to the Company's Oregon jurisdiction. According to ICNU, the Company's data demonstrate that the 29.5 percent allocation in Pacific Power's filing is inaccurate, and that Pacific Power should allocate only 27.8 percent of its total payroll to Oregon.<sup>36</sup> Moreover, ICNU asserts, Oregon's overall share of Pacific Power's costs has been declining and the 29.5 percent allocation is greater than the actual allocations to Oregon in each of the last five years.<sup>37</sup>

According to ICNU, Pacific Power's method for calculating the allocation also relies inappropriately on "budgets and estimates," rather than actual allocations from Federal Energy Regulatory Commission (FERC) clearing accounts. ICNU's adjustment, by contrast, relies on actual data from FERC accounts and the most recent data provided by the Company.<sup>38</sup> ICNU's adjustment would reduce the stipulated revenue requirement by approximately \$9 million.

The Joint Parties dispute ICNU's assertion that the Company used "budgets and estimates" to calculate its labor allocation. They explain that the

<sup>33</sup> See, e.g., PPL/800, Wilson/3-9.

<sup>34</sup> See generally, *In re Northwest Natural Gas Co.*, Docket UG 132, Order No. 99-697 at 45-46.

<sup>35</sup> We agree with the Joint Parties that ICNU has not adequately explained its change in position with respect to some of these adjustments. Witness Blumenthal specifically reviewed Pacific Power's testimony on wage and salary increases, as well bonuses and incentive plans, in July 2009. See ICNU-CUB/400, Blumenthal/2-3 (describing ICNU's opening position). ICNU changed its position on these issues in October 2009 without identifying new information sufficient to justify such changes.

<sup>36</sup> ICNU/600, Blumenthal/5-7, 9.

<sup>37</sup> ICNU/600, Blumenthal/9.

<sup>38</sup> ICNU/600, Blumenthal/5-7, 9.