SCOTT WOODBURY
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0320
BAR NO. 1895
Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

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IDAHO PUBLIC
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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF PACIFICORP DBA UTAH POWER & LIGHT COMPANY FOR A DEFERRED ACCOUNTING ORDER AND APPROVAL OF A SURCHARGE.	**CASE NO. PAC-E-03-5**
IN THE MATTER OF THE APPLICATION OF PACIFICORP DBA UTAH POWER & LIGHT COMPANY FOR APPROVAL OF REDUCTIONS IN BONNEVILLE POWER ADMINISTRATION REGIONAL EXCHANGE CREDITS.	**CASE NO. PAC-E-04-2** **COMMENTS OF THE COMMISSION STAFF**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Application in Case No. PAC-E-04-2, Notice of Consolidation with Case No. PAC-E-03-5, Notice of Modified Procedure, Notice of Comment/Protest Deadline and Order No. 29489 issued on May 5, 2004, submits the following comments.

BACKGROUND

On March 31, 2003, PacifiCorp filed an Application with the Idaho Public Utilities Commission in Case No. PAC-E-03-5 for an accounting Order allowing the Company to defer for regulatory purposes (a) excess costs incurred in 2001 for forward purchases made for the summer of 2003, and (b) federal and state tax payments made in 2002 resulting from Internal Revenue Service Income Tax Audits.

On December 21, 2003, following an informal stay of proceedings, the Company filed an amended Application with the Commission (a) removing its request for deferred accounting authority for summer 2003 excess power purchase costs, (b) providing additional and amended information regarding 2002-2003 tax audit payments, and (c) requesting approval of a 16-month Schedule 93 surcharge to collect the income tax related payments and to recover a projected under collection in the present Schedule 93 surcharge for recovery of authorized excess power costs.

On April 21, 2004, PacifiCorp filed an Application in Case No. PAC-E-04-2 to reduce Bonneville Power Administration (BPA) residential exchange credits. The credit reduction reflects both the annual change in BPA credits and the recovery of a negative balance booked in 2003. In addition to the Application, the Company filed a motion to consolidate its Application with the pending PacifiCorp proceeding, PAC-E-03-5.

In Comments filed on April 30, 2004 in Case No. PAC-E-03-5, Staff apprised the Commission of its intent to continue working with parties of record and the Company to develop a comprehensive settlement addressing all of the rate and cost recovery issues incorporated in Case Nos. PAC-E-03-5 and PAC-E-04-2. Staff further apprised the Commission that a settlement agreement would be submitted no later than May 19, 2004.

On May 5, 2004, the Commission issued Order No. 29489 in Case No. PAC-E-04-2 consolidating Case Nos. PAC-E-04-2 and PAC-E-03-5, establishing modified procedure for processing the 04-2 portion of the consolidated docket and setting a comment deadline of May 20, 2004. The Stipulation and the Supplemental Stipulation were submitted to the Commission on May 13, 2004. Reference IDAPA 31.01.01.272. The following Staff Comments support the Stipulation and the Supplemental Stipulation as reasonably resolving all issues raised in the consolidated cases.

STAFF COMMENTS

The comprehensive settlement submitted to the Commission by PacifiCorp and supported by all parties including the Commission Staff, actually consists of a Stipulation and a Supplemental Stipulation. The Stipulation addresses the following issues associated with the PAC-E-03-5 Case:

a) The $4.2 million tax audit payment deferrals and surcharge recovery over a 16-month period.
b) An approximate $200,000 Power Cost surcharge true-up recovery over a 16-month period.
c) A commitment by the Company to forego a general rate increase until after September 16, 2005.

The Supplemental Stipulation includes the following issues addressed in the PAC-E-04-2 Case:

a) Implementation of a $597,000 reduction in annual BPA Residential Exchange Credits
b) Recovery over a three-year period of a $ 5.7 million negative residential exchange credit deferral balance created by over-crediting customers in 2003/2004.

The terms of the proposed Stipulation and the Supplemental Stipulation, referred to from this point forward collectively as the Stipulation, results in no rate increase for most of PacifiCorp's Idaho customers when combined with rate changes already scheduled to take effect on June 8, 2004. While 230 customers served under tariff Schedule 6a and Schedule 8 will receive a slight rate increase (3.6% and 2.95%, respectively) due to reduced BPA exchange credits, many more customers will see a net decrease in rates over those currently in effect.

Tax Audit Payments

As indicated in prior Staff Comments, the primary issue subject to resolution in the consolidated case is the amount and timing of additional tax payments incurred in 2002 and 2003 that are subject to deferral and recovery. These additional tax payments result from IRS audit of Company tax returns filed for tax years 1994 through 1998. All other rate changes are either previously scheduled with Commission approval or result from changes in BPA residential exchange credits that are beyond the control of PacifiCorp.

PacifiCorp's 03-5 Application for a deferral accounting Order filed in March of 2003 requested deferral of both extraordinary power purchases made in 2001 and federal and state income tax audit payments made in 2002. Upon review of the filing, Staff informally expressed concerns to the Company regarding deferral of additional power purchase costs given the passage of time since the purchases were made and the fact that a surcharge had just been put in place to recover similar extraordinary costs. At the same time, Staff requested more information regarding the annual tax expense paid by customers through rates each year and what additional audit payments, if any, might reasonably be subject to recovery from customers.

As a result of further discussions with the Company and Staff's request for additional information, PacifiCorp filed an amended Application on December 23, 2003 in the PAC-E-03-5 case eliminating its request for deferral of extraordinary power supply costs and requesting deferral and recovery of tax audit payments incurred in both 2002 and 2003 for 1994-1998 tax years.

The underlying rationale put forth by the Company and generally accepted by Staff for the purpose of this Stipulation is that aggressively filed income taxes can decrease tax expense included in base rates but can also increase periodic tax payments resulting from IRS audit. Staff agrees with the general proposition that allowing recovery of prudently incurred tax audit payments provides an incentive for utilities to file income taxes aggressively thereby decreasing overall tax expense passed on to customers through rates. Staff also takes note of past Commission Order No. 20523 that recognizes tax audit expense as a potentially legitimate expense possibly subject to recovery through amortization. Staff has verified that additional taxes for the tax periods in question have been paid to the IRS as a result of income tax audit and have not been collected from ratepayers through other means such as tax reserve accounts. Staff notes that the Company's request to recover its additional tax audit payment was made contemporaneous with the IRS tax obligation determination. Consequently, for the purposes of this Stipulation, Staff accepts the $4.2 million tax audit payments as legitimate expenses subject to recovery through the proposed 16-month surcharge. At the request of Staff, any future audit payments will not be recovered by surcharge. Instead, PacifiCorp will file in the next Idaho rate case a proposed method of recovering future income tax audit payments, other than through surcharge.

BPA Residential Exchange Credits

The next most significant issue subject to negotiation and settlement in the Stipulation is the recovery of the deferred BPA exchange credit overpayment of $5.7 million. The over payment accrued when BPA reduced credits paid to PacifiCorp beginning in February 2003 but PacifiCorp has not reduced credits paid to its Idaho customers. The reduction in BPA credits is beyond the control of PacifiCorp and constitutes a direct pass through to customers. Staff has verified the overpayment amount and supports the proposed reduction in future BPA credits over an approximate 28-month period to eliminate the deferral balance.

In addition to recovery of the BPA credit overpayment accrued during 2003, the Stipulation provides for pass through of a further reduction in BPA credits of $597,000 per year to reflect the level of BPA credits currently received by PacifiCorp. This reduction is also beyond the control of PacifiCorp and constitutes a direct pass through to customers. Staff has verified the additional reduction in BPA credits going forward and supports the treatment proposed in the Stipulation. The overall net change in exchange credits of $2.496 million per year will be reflected in the tariff Schedule 34. Staff understands that the Company's goal is to achieve a zero balance in the exchange credit overpayment account by September 16, 2006 and believes the target date to be reasonable. Additional adjustment in the Schedule 34 rate may be required depending upon actual credits received from BPA and the annual energy consumption of PacifiCorp's Idaho customers.

Scheduled Rate Changes

One of the more important events allowing the Stipulation to be implemented with minimal rate increase is the general reduction in rates that is already scheduled to take place on June 8, 2004. The changes include elimination of all but a small portion of the Power Supply Cost (PSC) surcharge put in place by Commission Order No. 29034 issued in 2002. The second year of the surcharge, currently collected at an annual rate of approximately $7.24 million per year, will essentially expire with only a $200,000 true up remaining to be recovered over a 16-month period. While the Commission approved the true-up provision in Order No. 29034, the recovery period is part of the proposed Stipulation in this case.

In addition to the scheduled reduction in the PSC surcharge, scheduled rate adjustments will also occur on June 8, 2004 as a result of changes in the Rate Mitigation Adjustment (RMA) previously approved by the Commission in Order No. 29034. The RMA was designed to modify rates and revenue generated from the various customer classes to more closely match revenues with class cost of service. During the PSC surcharge period, the RMA was also utilized to mitigate the surcharge impact on individual customer classes. The third year of the previously approved RMA established a class revenue shift that remains in place until reset in a general rate case. These scheduled adjustments are unchanged by the proposed Stipulation.

Rate Impact Summary

When all of the rate changes, both previously scheduled and those proposed in the Stipulation are combined on June 8, 2004, only two rate classes experience any rate increase over rates in place the prior year. This increase for some 230 customers in Schedule 6A and Schedule 8 is the result of previously approved and scheduled rate changes. Recovery of the tax audit payments and elimination of the BPA credit over payment balance were applied to each customer class in such a way as to assure that rates decreased, stayed the same or increased no more than they otherwise would have absent the Stipulation.

Table A attached to the Stipulation shows that irrigation customers will see a decrease of 0.3 %, residential customers will see an overall decrease of 1.7% and general service customers will see a decrease of 10.8%. Absent continuation of the Schedule 93 surcharge to recover the tax audit expense, irrigation customers would experience a 5.9% rate reduction, residential customers would experience a 6.07% reduction and general service customers would see a 16.8% reduction in rates. This assumes that the BPA credit over-payment balance is eliminated over 28 months (or 3 irrigation seasons) without carrying charges as proposed in the Stipulation.

The General Rate Moratorium

A crucial aspect of the Stipulation for Staff was the Company's commitment to forgo filing a general rate increase that would become effective prior to expiration of the 16-month Schedule 93 tax audit surcharge on September 16, 2005. While the Stipulation does not prohibit the Company from filing a general rate case with the Commission prior to that date, general rate changes cannot become effective until that date. From a practical standpoint, this gives Idaho ratepayers a minimum of about 4 to 5 extra months before rates from a general rate case could be put in place. For irrigators, this translates to an extra irrigation season.

The assessment of minimum rate commitment benefit is based on the amount of time it would likely take the Company to file a general rate case, have the case processed through the Commission and have new rates implemented absent approval of the Stipulation. Obviously, any rate increase that might result from a general rate case is not known at this time. However, the Company has had general rate cases in all five of its other state jurisdictions within the last two years requesting increases ranging from $125 million in Utah to $16 million in California. Approved rate increases have been in the 5 to 10% range. Consequently, Staff believes the general rate commitment has benefit given what appears to be the Company's ability and incentive to file an Idaho general rate case in a relatively short time frame absent approval of the Stipulation.

Conclusions and Recommendations

All parties to the consolidated case including the City of Firth, the Idaho Irrigation Pumpers' Association, PacifiCorp and the Commission Staff support the proposed Stipulation. It allows the Company reasonable recovery of tax audit payments; it allows amortization without carrying charges of BPA credit overpayments; and it includes a general rate moratorium commitment from the Company, all without a significant increase in customer rates. While it is possible that rates could be lower for a short period absent approval of this Stipulation, Staff believes the agreement strikes a reasonable balance of cost recovery for the Company and rate stability for the customers. Therefore, Staff recommends that the Commission approve the Stipulation (and Supplemental Stipulation) as filed.

Respectfully submitted this 20th day of May 2004.

Scott Woodbury
Deputy Attorney General

Technical Staff: Randy Lobb

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 20TH DAY OF MAY 2004, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. PAC-E-03-05 / PAC-E-04-2, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

JOHN ERIKSSON
STOEL RIVES BOLEY ET AL
SUITE 1100
201 S MAIN ST.
SALT LAKE CITY, UT 84111

BOB LIVELY
PACIFICORP
201 S MAIN ST. SUITE 2300
SALT LAKE CITY, UT 84111

JAMES C PAINE
STOEL RIVES LLP
900 SW FIFTH AVE STE 2600
PORTLAND OR 97204

DATA REQUEST RESPONSE CENTER
PACIFICORP
825 NE MULTNOMAH SUITE 800
PORTLAND OR 97232

TIMOTHY J SHURTZ
CITY COUNCILMAN
CITY OF FIRTH
PO BOX 37
FIRTH ID 83236

ANTHONY YANKEL
29814 LAKE ROAD
BAY VILLAGE OH 44140

ERIC L OLSEN
RACINE, OLSON, NYE, BUDGE
& BAILEY, CHARTERED
PO BOX 1391
POCATELLO ID 83204-1391

Glenda D. Koch
SECRETARY