

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

FROM: SCOTT WOODBURY

DATE: APRIL 3, 2003

**RE: CASE NO. PAC-E-03-5 (PacifiCorp)
REQUEST FOR DEFERRED ACCOUNTING ORDER**

On March 31, 2003, PacifiCorp dba Utah Power & Light Company (PacifiCorp; Company) filed an Application with the Idaho Public Utilities Commission (Commission) for an accounting Order allowing PacifiCorp to defer, for regulatory purposes (a) excess costs incurred for forward power purchases made for the summer of 2002, and (b) federal and state payments made in 2002 resulting from Internal Revenue Service Income Tax Audits. Reference *Idaho Code* § 61-524, System of Accounts.

As a normal and integral part of its operation as a public utility, PacifiCorp states that the Company purchases electricity from independent suppliers in the wholesale market. Such purchases, as well as sales in the wholesale market, it contends, are taken into account in setting PacifiCorp's retail rates through the inclusion of net power costs in the Company's jurisdictional revenue requirement.

Starting in April 2001, PacifiCorp contends that it prudently bought forward approximately 492,000 MWh of power in the wholesale market at an average price of approximately \$152 per MWh. This energy, PacifiCorp contends, was purchased to meet expected load requirements for July, August and September 2002 and to protect customers from the exceedingly high wholesale prices and volatility that were experienced in the WECC region starting May 2000 and which were expected to continue through the 2002 summer season. PacifiCorp's situation in this regard, it states, is similar to a number of other utilities in the West which made forward purchases that afterward turned out to be above market. The excess

forward market purchase costs which PacifiCorp proposes to defer are \$56 million on a total Company basis, and approximately \$2.5 million allocated to Idaho.

PacifiCorp proposes to account for the excess forward purchased costs in the following manner for regulatory purposes: excess forward purchase costs will be credited to Account 555, Purchased Power, thereby decreasing the recorded power supply expenses, and debiting Account 182.399, Regulatory Assets.

PacifiCorp also requests approval of deferred regulatory accounting for federal and state income tax payments made in 2002 resulting from the conclusion of Internal Revenue Service Income Tax Audits for tax years 1994 through 1998, in which the IRS made its final determination of the adjustments to the Company's income tax obligations. Such payments attributable to PacifiCorp's regulated utility operations amounted to approximately \$68 million. These IRS audit-related payments, the Company contends, are a legitimate cost of doing business, as previously recognized by the Commission. *Citing Re: Utah Power & Light Company*, Case No. U-1009-157, Order No. 20523 (May 29, 1986), in which the Commission on reconsideration of a Commission adopted expense adjustment to a disputed IRS tax assessment, determined that if the Company could show it paid a liability arising from an IRS Audit, ("we will allow it to submit tariffs to recover this alleged liability from its ratepayers as a legitimate expense.") The 2002 federal and state tax audit determination payments attributable to Idaho are \$3,460,000.

PacifiCorp proposes to account for the federal and state income tax payments, for regulatory purposes, in the following manner: income tax payments will be credited to Account 409, Income Taxes, thereby decreasing the recorded income tax expense, and debiting Account 182.399, Regulatory Assets.

Deferred accounting treatment for regulatory purposes, PacifiCorp contends, is an appropriate, just and reasonable means of providing the Company an opportunity to seek recovery of the extraordinary forward purchase power costs and IRS Audit-related income tax payments incurred by the Company. PacifiCorp states that it does not request a determination at this time of prudence or ratemaking treatment of the costs it seeks authority to defer. Any such determinations, it contends, will be made in a future rate proceeding.

PacifiCorp requests that the Commission consider this matter under Modified Procedure pursuant to Commission Rules of Procedure 201-204 and enter its Order authorizing

the deferral of the Company's excess forward purchased costs, and the federal and state income tax payments.

Commission Decision

PacifiCorp has filed a request for a deferred accounting Order to recover excess costs incurred for forward power purchases made for the summer of 2002 and federal and state payments made in 2002 resulting from Internal Revenue Service Income Tax Audits. Staff recommends that the Company's Application be processed pursuant to Modified Procedure, i.e., by written comment rather than by hearing. Does the Commission agree with the proposed procedure?

Scott Woodbury

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