

SCOTT WOODBURY  
DEPUTY ATTORNEY GENERAL  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0320  
BAR NO. 1895

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UTILITIES COMMISSION

Street Address for Express Mail:  
472 W. WASHINGTON  
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )  
PACIFICORP DBA UTAH POWER & LIGHT ) CASE NO. PAC-E-03-5  
COMPANY FOR A DEFERRED ACCOUNTING )  
ORDER AND APPROVAL OF A SURCHARGE. )  
 )  
 ) 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 Public Workshops and Notice of Comment/Protest Deadline issued on March 23, 2004, submits the following comments.

**BACKGROUND**

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.

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 2002 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 audit-related payments and to recover a projected under-collection in the present Schedule 93 surcharge for recovery of authorized excess power costs. Reference Order No. 29034, June 8, 2002. PacifiCorp requests approval of deferred regulatory accounting for federal and state income tax payments made in 2002-2003 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 \$54 million. The revenue requirement associated with the 2002-2003 federal and state tax audit determination payments attributable to Idaho is \$4,198,000. *See* Application, Exhibit No. 2 (revised).

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 federal and state IRS audit-related income tax payments incurred by the Company.

In its amended Application the Company includes a request for approval of proposed electric service Schedule 93 (proposed Schedule 93) to collect the income tax audit-related payments described in its amended Application and to address the over-collection or under-collection of excess power costs currently being recovered under present electric service Schedule 93 (present Schedule 93). The Company requests that the proposed Schedule 93 be effective immediately upon the expiration of the present Schedule 93 (June 8, 2004). Present Schedule 93 provides that, subject to Commission review and approval, the surcharge may continue at a revised rate to reflect any under-collection or over-collection of the authorized surcharge amount. Order No. 29034, June 8, 2002. Current estimates of the power cost collection under the existing surcharge project an under-collection of approximately \$200,000 as of June 8, 2004. PacifiCorp's proposed Schedule 93 includes the projected under-collection of power costs in addition to the requested collection of income tax

audit-related payments. If approved, the power costs under-collection of approximately \$200,000 will be revised based on current actual data prior to implementation of proposed Schedule 93. The deferred amounts collected through the surcharge will not include a carrying charge.

The proposed Schedule 93 is designed to recover from tariff customers, on a uniform percentage basis of revenue from each rate schedule, the deferred amounts over a period of approximately 16 months. Proposed Schedule 93 would be applied to customers' bills for electric usage commencing June 08, 2004. Utilizing a test period for the 12-months ending March 31, 2003, Application Exhibit No. 6 shows the effects of proposed Schedule 93 by rate schedule and a worksheet containing derivation of the cents per kilowatt hour surcharges for each rate schedule. For residential customers, the implementation of proposed Schedule 93 would result in a price reduction from current prices averaging 3.3%. Excluding special contracts, commercial and industrial customers would see a price reduction averaging 3.5%. Irrigation customers would see a price reduction averaging 3.6%. The overall effect on Idaho tariff customers would be a price reduction from current levels averaging 3.5%. If the current surcharge is allowed to expire as scheduled on June 08, 2004, a rate decrease of approximately 5% from current levels will result. The price changes set out in the Company's Application, the Company notes, do not reflect any impact of reductions to the levels of BPA credits that are expected to occur in 2004.

#### **STAFF ANALYSIS**

On April 21 and 22, 2004, Staff held public workshops in the Idaho cities of Preston and Rexburg to explain PacifiCorp's Application for deferral and recovery of additional tax expenses resulting from IRS audits and to solicit input from the public. In addition to describing the rate effects of implementing a tax surcharge, Staff described the rate changes scheduled to automatically take effect in June 2004 and the changes in BPA credits that were also likely this year. In conjunction with the public workshop held in Rexburg on April 22, Staff met with PacifiCorp, the Idaho Irrigation Pumpers Association and the City of Firth represented by Tim Schurtz (parties to the case) to discuss possible settlement of the issues.

IDAPA 31.01.01.372

The issues currently subject to resolution in this case are limited to determining the appropriate amount and timing of additional tax expense incurred in 2002 and 2003 that should be subject to recovery. These tax expenses result from IRS audit of Company tax returns filed in 1994 through 1998. The Company has proposed to recover \$4.2 million in additional tax expenses over a 16-month period beginning June 8, 2004. The effective date of June 8 is significant because the majority of the 2004 irrigation season remains and it is on that date that the existing Power Cost Surcharge (PCS) expires. The Company indicates that the 16-month recovery period is somewhat arbitrary but is designed to span two irrigation seasons and limit the impact the tax surcharge will have on rates.

In addition to its Application to recover tax audit expenses, the Company filed an application on April 21, 2004, Case No. PAC-E-04-02, to reduce BPA regional exchange credits. The credit reduction reflects both the annual change in BPA credits and the recovery of a negative credit balance booked in 2003/2004. The negative credit balance totaling approximately \$5.7 million results from PacifiCorp continuing to provide a BPA credit to its customers in 2003/2004 in excess of the credit amount actually received from BPA. The Company proposes to eliminate this negative balance by reducing the BPA credit provided to customers over a three-year period beginning on June 8, 2004.

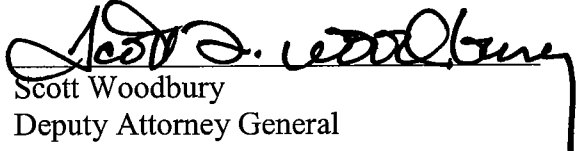
The final component of customer rates scheduled to change on June 8, 2004 is a small change in the Rate Mitigation Adjustment (RMA) and a PCS true-up increment reflecting over or under recovery of power supply costs during the 2002-2004 surcharge period. These changes were agreed to by Stipulation of the parties and approved by the Commission in Case No. PAC-E-02-1 (Order No. 29034) originally establishing the Power Cost Surcharge.

Given the numerous rate and credit changes either scheduled or proposed with an effective date of June 8, 2004, Staff believes a comprehensive settlement can be reached that will resolve all of the issues described above and result in a single rate change in 2004. The majority of PacifiCorp's Idaho customers could see a slight decrease or no change compared to rates paid during 2003/2004. 230 customers (Schedule 6A (3.6%) and Schedule 8 (2.95%)) would see a slight increase due to changes in the RMA and BPA credits.

**STAFF RECOMMENDATION**

Based on the foregoing, Staff apprises 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 expects that settlement agreement will be submitted to the Commission no later than May 19, 2004.

Respectfully submitted this 30<sup>th</sup> day of April 2004.

  
Scott Woodbury  
Deputy Attorney General

Technical Staff: Randy Lobb

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 30TH DAY OF APRIL 2004, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. PAC-E-03-05, 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

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

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

ANTHONY YANKEL  
29814 LAKE ROAD  
BAY VILLAGE OH 44140

  
\_\_\_\_\_  
SECRETARY