

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
PACIFICORP DBA UTAH POWER & LIGHT) CASE NO. PAC-E-05-1
COMPANY FOR AUTHORITY TO INCREASE)
ITS RATES FOR ELECTRIC SERVICE TO)
ELECTRIC CUSTOMERS IN THE STATE OF) ORDER NO. 29833
IDAHO.)**

On January 15, 2005, PacifiCorp dba Utah Power & Light Company (PacifiCorp; Company) filed an Application for authority to increase the Company's general rates for electric service by an average of 12.5%. If approved, the Company revenues for electric base retail rates would increase by \$15.1 million annually. The net increases recommended by the Company in its Application range from 15.6% for Agrium to 10.4% for Irrigators to 9.6% for residential service to 6% for general service customers. Monsanto, a non-tariff special contract customer, is not affected by the increase. Reference Monsanto contract – Order No. 29157, Case No. PAC-E-01-16. The net amount of actual increase varies by class of customer and usage.

On February 3, 2005, the Commission issued Notices of Application and Intervention Deadline in Case No. PAC-E-05-1. Parties requesting and granted intervention were: Monsanto Company, Idaho Irrigation Pumpers Association, Inc., Agrium, Inc., J.R. Simplot Company, Community Action Partnership Association of Idaho and Timothy J. Shurtz.

Stipulation (and Proposed Settlement)

On June 13, 2005, a Stipulation (and proposed Settlement) was filed in PacifiCorp Rate Case No. PAC-E-05-1. Reference IDAPA 31.01.01.272, 274 – Settlements. We incorporate by reference the submitted Stipulation (and Proposed Settlement) as if set forth herein in its entirety. The Stipulation is signed by PacifiCorp, Commission Staff, the Idaho Irrigation Pumpers Association, Community Action Partnership Association of Idaho, Agrium, Inc., J.R. Simplot Company and Timothy J. Shurtz. Monsanto Company, an intervenor, did not sign the Stipulation. Monsanto specifically objects to ¶ 9 of the Stipulation, a provision that addresses special contract customers and how its rates may be changed.

Pursuant to ¶ 5 of the Stipulation, PacifiCorp shall be allowed to implement revised tariff schedules designed to recover \$5.75 million in additional annual revenue from base rates, representing an aggregate base rate increase of 4.8%. The revised tariff schedules would become

effective September 16, 2005, contemporaneously with the expiration of the Power Cost/Tax Surcharge (Schedule 93) currently included in customers' bills. (Order No. 29518) As reflected in the Stipulation, all regulatory assets and liabilities are unadjusted and recognized for purposes of the Settlement. The resulting increase for each customer class will be a uniform 1.7% rate increase above current rates whether or not such current rates include Schedule 93, Power Cost/Tax Surcharge and Schedule 94, Rate Mitigation Adjustment.

Other terms of the Stipulation include a Staff commitment to engage in a collaborative discussion with the Company to explore development of alternative rate recovery mechanisms (§ 10); a PacifiCorp commitment to meet with Irrigators regarding the calculation of credits under the Company's Schedule 72 – Irrigation Load Control Credit Rider (§ 11); and a PacifiCorp commitment to file revisions to its Low Income Weatherization Program tariff (Schedule 21) to increase customer participation and available incentives for installation of additional cost-effective weatherization measures (§ 12).

Pursuant to Rule 274 of the Commission's Rules of Procedure, "when a settlement, be it active or passive, is presented to the Commission, the Commission will prescribe procedures appropriate to the nature of the settlement to consider the settlement." As reflected in the Commission's Rules, the Commission is not bound by settlements. Rule 276. Proponents of a proposed settlement carry the burden of showing that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. Rule 275.

On June 17, 2005, the Commission issued Notices of Stipulation and Proposed Settlement and established an Amended Notice of Scheduling and Deadline for Public Comment. On July 15, 2005, following review of the supporting testimony and comments of the parties and the filed objection of Monsanto, the Commission vacated the schedule for technical and public hearings.

Commission Findings

The Commission has reviewed the filings of record in Case No. PAC-E-05-1 including the Stipulation (and Proposed Settlement) and the related testimony and comments of the parties in support and opposition. We note further that the deadline for public comment has passed and that no comments were filed on the Stipulation; three public comments were filed on the increase requested. For reasons set forth below the Commission finds the Stipulation and negotiated Settlement submitted in this case, as amended by the Commission to exclude

Paragraph 9, to be just, fair and reasonable and in the public interest. As represented, we find that the Settlement is a compromise by all parties. We find the \$5.75 million, 4.8% increase to be reasonable, as is spreading the increase to customers in a uniform 1.7% above current rates, whether or not such current rates include Schedule 93 Power Cost/Tax Surcharge and Schedule 94 Rate Mitigation Adjustment. We further find that the compromise presents an equitable sharing of cost responsibility between the Company and its customers. In approving the Settlement, as amended by the Commission, we defer the issue of cost responsibility and cost allocation to next year, 2006, when the Commission will have before it filed rate and Monsanto contract proceedings wherein all customers, including Monsanto, will be expected to be active participants and subject to the outcome.

The stipulating parties support continued use of the Revised Protocol jurisdictional cost allocation methodology for future rate proceedings consistent with the terms and conditions of the Multi-State Process (MSP) Stipulation and Agreement and the Commission's Order No. 29708 in Case No. PAC-E-02-3. The Stipulation recognizes that pursuant to the Rate Mitigation Measure previously approved to limit the financial impact regarding the change in allocation methodology, the Company's Application request in this case was \$1.84 million below what it would otherwise have been. Stipulation ¶ 7.

Monsanto represents approximately 40% of PacifiCorp's Idaho load and approximately 25% of the Company's Idaho revenues. As represented in comments filed by the stipulating parties, if Monsanto's cost of service had been updated in a manner consistent with the cost of service study included in the Company's filing, approximately \$11 million of the \$15.1 million rate increase request would have been attributable to Monsanto. Staff and other parties in this case oppose the Company's Application proposal to allocate the revenue requirement deficiency associated with service to Monsanto to other customers. Various parties including Agrium and the Irrigators also dispute the Company's cost of service study. PacifiCorp believes that any Commission decision in this case regarding the treatment of Monsanto shortfall would result in an appeal of the Commission's decision. Approval of the Stipulation reduces this uncertainty.

The tendered Stipulation does not resolve the Monsanto shortfall issue. As reflected in the Stipulation, the Company intends to file its next general rate case in Idaho no later than April 29, 2006. The current Monsanto contract expires December 31, 2006. Deferring the cost

of service issue to 2006, we find, will permit an alignment of cost studies and use of the same study for both the rate case and the yet to be negotiated Monsanto service contract.

Paragraph 9 of the Stipulation addresses the tariff versus contract standard as it pertains to special contract customers and future service contracts. The paragraph specifically states "The Commission is not bound by any agreement of the Parties on this issue." The case before us is not a special contract proceeding. As indicated previously, Monsanto's service contract extends through December 31, 2006. The Commission therefore finds that the contract/tariff standard issue is not an issue that needs to be resolved or addressed by this Commission in the context of this rate case Application and the tendered Stipulation and proposed Settlement resolving same. Under Rule 276 of the Commission's Rules of Procedure, the Commission has authority to state additional conditions under which a settlement will be accepted. Exercising our authority, we condition our acceptance on removal of ¶ 9 from the Stipulation. IDAPA 31.01.01.276 Our removal of same should not be interpreted, however, as a Commission determination on the merits of the underlying issues addressed by ¶ 9, for it is not. Nor should it be interpreted as restricting the parties, including Commission Staff, from taking or expressing a position on the tariff/contract standard issue as it pertains to Monsanto or any other special contract customer. In removing same we intend only to indicate that in the context of the Stipulation and proposed Settlement of the rate case we consider ¶ 9 to be unnecessary. The contract/tariff standard issue and the related ramifications pertaining to cost allocation, cost recovery and revenue requirement responsibility are issues we find that merit a fully developed record of decision with all positions fairly represented. We trust such a record will be fully developed for Commission decision in the cases to be filed in 2006.

PacifiCorp contends that the proposed rate increase set forth in the Stipulation will enhance its ability to continue to safely and reliably meet the electric service needs of its Idaho customers. In approving the Stipulation we acknowledge a dual regulatory responsibility to both the Company and its customers.

Included in the Stipulation is Staff's agreement to discuss with the Company the possibility of developing an alternative rate recovery mechanism, including a Power Cost Adjustment (PCA) mechanism. Stipulation ¶ 10. The Company also commits to meet with the Irrigators and other interested parties to discuss the calculation of credits provided under the

Company's Schedule 72, Irrigation Load Control Credit Rider Program for the 2006 irrigation season. Stipulation ¶ 11. The Company further expresses its commitment to file revisions to its Schedule 21, Low Income Weatherization Program. Stipulation ¶ 12.

Specific proposed program and tariff changes will include increasing the available annual Community Action Agency incentives from \$100,000 to \$150,000 annually. The Company will also propose to increase the rebate on weatherization services available on homes with installed electric heat from the current maximum of \$1,000 per dwelling to an average annual rebate of \$1,500 per dwelling. In addition, the Company will propose to increase the administrative reimbursement provided to Community Action Agencies from \$150 per completed home to 15 percent of PacifiCorp's rebate on installed measures with set maximums. The Company will also propose to expand its current program incentives by offering reimbursement of 50 percent of costs associated with additional measures installed in homes regardless of heating source, including compact fluorescent light bulbs, replacement refrigerators and water heating measures in homes with electric water heaters. To promote installation of efficiency measures that have become cost-effective in the last decade, PacifiCorp will propose to offer rebates for homes in which benefits were provided under this tariff prior to October 1, 1993, once per individual measure and up to two times per dwelling. The Company will evaluate this tariff (Schedule 21) within two years to determine if further revisions are warranted.

We find all these commitments to be fair and reasonable.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over PacifiCorp dba Utah Power & Light Company, an electric utility, and the issues presented in this case, pursuant to the powers granted it under Title 61 of the Idaho Code and pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq., including specifically Rules 272 through 280 as pertains to Settlements.

ORDER

In consideration of the foregoing and as more particularly described above, it is hereby ordered and the Commission hereby, save and except for Paragraph 9, accepts the Stipulation and Proposed Settlement tendered in Case No. PAC-E-05-1 approving a \$5.75 million increase in base rates representing an aggregate base rate increase of 4.8% for an effective date of September 16, 2005. The Company is directed to file amended tariffs

comporting with this Order where the resulting net increase for all tariff classes, customers and rate components is a uniform 1.7% rate increase above current rates.

Our acceptance of the Stipulation and Proposed Settlement in this case is conditioned on removal of ¶ 9. Accordingly, pursuant to Stipulation ¶ 15 the parties have (15) days to provide written notice to the Commission and the other parties of their election to withdraw from the Stipulation. In such case, the Stipulation provides that the Parties will immediately request the prompt reconvening of a prehearing conference for purposes of establishing a procedural schedule for the completion of this case.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22nd day of July 2005.



PAUL KJELLANDER, PRESIDENT

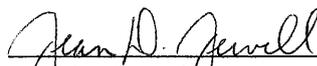


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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