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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PacifiCorp (U901E), an Oregon Company, for an Order Authorizing a Rate Increase Effective January 1, 2011 and Granting Conditional Authorization to Transfer Assets, pursuant to the Klamath Hydroelectric Settlement Agreement.

Application 10-03-015
(Filed March 18, 2010)

**ASSIGNED COMMISSIONER'S SCOPING MEMO AND
RULING REGARDING PETITION TO MODIFY DECISION 11-05-002**

Summary

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules),¹ this Scoping Memo and Ruling sets forth the procedural schedule, assigns the presiding officer, and addresses the scope of this proceeding and other procedural matters following the prehearing conference held on June 19, 2012.

¹ All references to rules are to the Commission's Rules of Practice and Procedure, which are available on the Commission's website at http://docs.cpuc.ca.gov/word_pdf/RULES_PRAC_PROC/70731.pdf.

Background

On January 13, 2012, PacifiCorp filed a petition for modification of Decision (D.) 11-05-002² in Application (A.) 10-03-015, in which it requests that the \$13.76 million Klamath surcharge it was authorized to collect be recovered over approximately eight years instead of the currently authorized nine years, in order to collect the entire authorized amount by December 31, 2019.

On February 10, 2012, the County of Siskiyou (including Siskiyou County Flood Control and Water Conservation District and Siskiyou Power Authority), filed a response to the petition for modification. On February 13, 2012, the Division of Ratepayer Advocates (DRA) filed a response to the petition for modification. On February 23, 2012, PacifiCorp replied to the responses. On May 18, 2012, the assigned Administrative Law Judge (ALJ) issued a ruling treating the petition for modification as an application and setting a prehearing conference (PHC).

On June 19, 2012, the PHC took place in San Francisco to discuss the scope of the proceeding and develop a procedural timetable for the management of the proceeding. Party status was granted to Siskiyou County Water Users Association and Rich Marshal (jointly referred to as SCWUA).

² In D.11-05-002, the Commission approved PacifiCorp's request for: 1) a surcharge of \$13.76 million collected over nine years, not to exceed the 2% limit of the authorized annual revenue requirement as of January 1, 2010; 2) institution of two trust accounts for the deposit of the surcharge; and 3) depreciation of the rate base of the Klamath River Project assets, and amortization of the relicensing and settlement costs associated with the Klamath River Project, on an accelerated basis. These requests were approved to allow PacifiCorp to fulfill requirements of the Klamath Hydroelectric Settlement Agreement (KHSA) that affect its California customers.

Scope of Proceeding

Through the petition for modification, responses, and reply, and discussions during the PHC, parties conducted an exchange that has helped to refine the scope of the Application. This proceeding is limited to an examination of only the following:

1. Whether the period over which the Klamath surcharge is amortized should be revised; and
2. As a result of that change, whether the amount of the Klamath surcharge should be revised.

As stated in the assigned ALJ's May 18, 2012 ruling, all other issues, including but not limited to any possible delay in achievement of project milestones, is not within the scope of the current proceeding.

In their opening and reply briefs, parties should address only issues within the above-stated scope of this proceeding.

Need for Hearing and Proceeding Schedule

At the PHC, PacifiCorp states that its request is a "simple matter of mathematics," therefore does not believe that hearings are required. The Pacific Coast Federation of Fishermen's Associations, Institute for Fisheries Resources, Klamath Water Users Association, American Rivers, and California Trout all agree with PacifiCorp that hearings are not necessary to resolve the current proceeding.

At the PHC, DRA stated that it does not have a position at this time as to whether hearings should be held or not. DRA notes that the Commission is required to find that a rate increase is just and reasonable, and is not sure that such a finding is viable based on the pleadings filed in the proceeding to date. SCWUA agrees with DRA, but states that hearings dates should be set as a

placeholder, just in case the Commission determines that hearings are necessary after receipt of customer input and possible testimony.

The County of Siskiyou (including Siskiyou County Flood Control and Water Conservation District and Siskiyou Power Authority) stated at the PHC that public hearings are necessary in order to look at the details of the request, including but not limited to: whether the two percent limit on surcharge increases has been reached; and the effect of the uncertainty regarding achievement of various milestones upon which the requested increase is predicated, such as required federal legislation, determination by the United States Secretary of the Interior and funding via a California Bond.

Given the limited scope of this proceeding (as discussed above), no one has articulated any disputed issues of material fact regarding the scoped issues. Therefore, as noted in the schedule below and in accordance with Rule 7.3(a), today's scoping memo adopts a procedural schedule that includes the filing of Opening and Reply Briefs and no hearings.

If, after further review, parties believe that there are disputed issues of material fact regarding the limited scope of issues for which hearings may be necessary, they should set forth such position in their Opening or Reply Briefs, including a clear articulation of the disputed issue of fact and why it is material. After receipt and review of the briefs, a final determination will be made regarding the necessity of evidentiary hearings.

Description	Dates
Opening Briefs Filed	July 10, 2012
Reply Briefs Filed	July 20, 2012
Proposed Decision Issued	Within 90 days of submission

We anticipate this matter will be resolved according to the schedule set forth above. In any event, we anticipate this matter will be resolved within 18 months of this Scoping Memo pursuant to Pub. Util. Code § 1701.5.

Presiding Officer

Pursuant to Rule 13.2, Administrative Law Judge Seaneen M. Wilson continues to be the Presiding Officer in this proceeding.

***Ex Parte* Rule**

In this proceeding, the *ex parte* rules applicable to ratesetting proceedings set forth in Rules 8.1, 8.2, 8.3, 8.4, and Public Utilities Code Section 1701.3(c) apply, until such time as we make a final determination regarding the need for hearings.

Filing, Service, and Service List

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain documents as required by the Commission Rules or in response to rulings by either the assigned Commissioner or the assigned ALJ. All formally filed documents must be filed with the Commission's Docket Office and served on the service list for the proceeding. Article 1 of the Rules contains all of the Commission's filing requirements. Parties must file and serve all pleadings as set forth in Article 1 of the Commission's Rules. Parties are encouraged to file and serve electronically, whenever possible, as it speeds processing of the filings and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/puc/efiling>. If the submission of prepared testimony is subsequently authorized, it will need to be served, but not filed.

This proceeding will follow the electronic service protocols adopted by the Commission in Rule 1.10 for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the party or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by U.S. mail. Concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only," is required. Parties are expected to provide paper copies of served documents upon request.

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: A.10-03-015 – Petition to Modify D.11-05-002. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Comments*. Both an electronic and a hard copy should be served on the ALJ.

The official service list for this proceeding is available on the Commission's website. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission's Process Office. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's website meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to public.advisor@cpuc.ca.gov.

IT IS RULED that:

1. The issues and schedule are as set forth in the body of this ruling unless amended by a subsequent amended scoping memo or ruling of the Presiding Officer.

2. This proceeding is categorized as ratesetting.

3. This proceeding may not require evidentiary hearings.

4. The presiding officer of this proceeding continues to be Administrative Law Judge Seaneen M. Wilson.

5. *Ex parte* communications are subject to Rules 8.1, 8.2, 8.3, and 8.4 of the Commissions' Rules of Practice and Procedure, and Public Utilities Code Section 1701.3(c).

Dated June 29, 2012, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner