

Decision **PROPOSED DECISION OF ALJ O'DONNELL** (Mailed 9/9/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF  
CALIFORNIA

In the Matter of the Application of PacifiCorp  
(U-901-E) for an Order Authorizing an Immediate  
Interim Rate Increase, Subject to Refund and for  
Consideration of a Rate Stabilization Plan.

Application 01-03-026  
(Filed March 16, 2001)

James C. Paine and James Van Ostrand, Attorneys at  
Law, for PacifiCorp, applicant.

Gregory Heiden, Attorney at Law, for the Office of  
Ratepayer Advocates; S. Bradley Van Cleve, Attorney  
at Law, for Roseburg Forrest Products; Karen Norene  
Mills, Attorney at Law, for the California Farm  
Bureau Federation, and Mary Francis Mc Hugh,  
Deputy Siskiyou County Counsel, for Siskiyou  
County; interested parties.

DECISION ADOPTING SETTLEMENTS

I. Summary

By this decision, we adopt an unopposed settlement of the revenue  
requirement for PacifiCorp for a 2002/2003 test year.<sup>1</sup> In addition, we adopt an

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<sup>1</sup> July 1, 2002, through June 30, 2003.

all-party settlement of the revenue allocation and rate design<sup>2</sup>. The result is an overall revenue requirement increase of \$2.8 million over the revenues generated by the present rates (current revenues), as opposed to PacifiCorp's requested increase of \$11.4 million.

## II. Background

In its original application, PacifiCorp requested an interim increase of one-cent per kilowatt-hour. It also indicated its intent to file a general rate increase request in a second phase of the proceeding. On December 19, 2001, PacifiCorp filed its general rate increase request for a total increase of \$16.04 million (including the interim increase request). By Decision (D.) 02-06-071, the Commission granted the interim increase except that no rate could exceed the rate requested in PacifiCorp's general rate increase filing, and customers eligible for the California Alternative Rates for Energy program and customers who qualify for special baseline usage allowances for medical reasons were exempted. This yielded an interim increase of approximately \$4.6 million.

On June 20, 2003, PacifiCorp and the Commission's Office of Ratepayer Advocates (ORA) filed a joint motion to adopt a settlement of the revenue requirement. The settlement is unopposed by the other parties. On July 7, 2003, an all-party joint motion, to adopt an all-party settlement addressing the revenue requirement and rate design, was filed.<sup>3</sup> These two settlements address all

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<sup>2</sup> Technically, these are stipulations because they each resolve part of the proceeding, rather than the entire proceeding. However, the requirements for approval are no different for stipulations, and the parties call them settlements in their filings. Therefore, we will call them settlements.

<sup>3</sup> The all-party settlement was signed by all of the active parties to this phase of the proceeding, which addresses the general rate increase request. Siskiyou County did not participate in this phase of this proceeding.

aspects of the general rate increase request. Hearings were held on June 23 and July 21, 2003. The proceeding was submitted on July 24, 2003.

### III. The Revenue Requirement Settlement

PacifiCorp requested an annual increase of \$16.04 million (29.38%). The interim increase granted in D.02-06-071 yielded an annual increase of about \$4.6 million. Therefore, PacifiCorp's request was for a revenue requirement increase of \$11.4 million above current revenues. In ORA's reports, it recommended a decrease of \$2.74 million below current revenues.

In the proposed revenue requirement settlement, included as Attachment A to this decision, PacifiCorp and ORA agreed to the following changes to the ORA report.

- The report inadvertently understated federal, state and deferred taxes. This correction increased the revenue requirement by \$1.9 million.
- The report was based on estimated plant balances for the test year that ran from July 1, 2002 through June 30, 2003. Updating the estimate to reflect recorded plant balances as of December 31, 2002, resulted in a revenue requirement increase of \$1.4 million.
- ORA proposed an increase in estimated retail electric loads and associated revenues. This caused an increase in the allocation of system costs resulting in a revenue requirement increase of \$1.7 million.
- PacifiCorp and ORA agreed to use a 2.99% depreciation rate for distribution plant based on a new depreciation study completed after the general rate increase request was filed. This increased the revenue requirement by \$0.6 million.
- PacifiCorp and ORA agreed to an overall rate of return of 8.53%. This used a 10.9% return on equity (ROE), and a capital

structure of 48% long-term debt, 6% preferred stock, and 46% common equity.<sup>4</sup>

The above adjustments to ORA's report resulted in a revenue requirement increase of \$2.8 million (4.7%) over current revenues. This is approximately \$5.58 million over ORA's recommendation, and \$8.6 million below PacifiCorp's request.

Pacificorp's total revenue requirement increase requested in this proceeding was \$16.04 million. The increase proposed in the revenue requirement settlement, plus the interim increase granted in D.02-06-071, yields a total revenue requirement increase of \$7.4 million.

In addition, PacifiCorp withdrew its request for a Power Cost Adjustment Mechanism (PCAM).<sup>5</sup>

#### IV. The Revenue Allocation and Rate Design Settlement

In the proposed revenue allocation and rate design all-party settlement, included as Attachment B to this decision, the parties agreed to the following terms.

- The proposed allocation of the revenue requirement compared to current revenues by customer class is an increase of 7.16%

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<sup>4</sup> D.02-11-027 adopted a 10.9% ROE for 2003 for Sierra Pacific Power Company and San Diego Gas & Electric Company. It also adopted an 11.22% ROE for Pacific Gas and Electric Company, and an 11.60% ROE for Southern California Edison Company.

<sup>5</sup> Under the proposed PCAM, a base net power cost (BPNC) would be established. The BPNC would be compared to the actual net power cost on a monthly basis with the difference recorded in a PCAM account. Rates would be adjusted as necessary to recover the balance in the PCAM account subject to a reasonableness review.

for residential, 2.37% for commercial and industrial,<sup>6</sup> and 0.0% for public street lighting.

- The Residential Winter Saver Rate is eliminated, and those customers are moved to the applicable residential rate schedule.<sup>7</sup>
- The 10% rate reduction mandated by Assembly Bill 1890 is eliminated.
- The baseline allowances are revised in compliance with D.02-04-026.<sup>8</sup> The present and proposed baseline quantities are shown in Attachment C to this decision.
- The marginal costing methodology proposed by ORA is used.<sup>9</sup>
- As proposed by ORA, the proposed revenue requirement increases for each customer class do not exceed 2.5% over the overall system average increase of 4.7%.

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<sup>6</sup> Includes agricultural.

<sup>7</sup> This program was developed in the 1980s to encourage customers to switch from wood heating to electric space heating. It consisted of an experimental tariff that charged an effective fixed price of 4.5 cents per kilowatt-hour for all incremental usage over a customer-specific historic base usage amount. In addition, the customer paid a \$2.00 monthly charge during the winter heating season.

<sup>8</sup> D.02-04-026 required PacifiCorp to use one of three methodologies to update energy usage data. PacifiCorp applied the weather normalization methodology to the historical data used in this general rate increase application. This met the other requirement of D.02-04-026 that baseline allowances be calculated using 1999 or later data. The baseline quantities were developed using the existing bill frequency methodology ordered by D.02-04-026. Baseline quantities were set at 60% of average usage for standard residential customers, and 70% of average winter usage for all-electric residential customers.

<sup>9</sup> PacifiCorp agreed to the use of this methodology only for the purpose of this settlement.

## V. Discussion

Rule 51.1(e) of the Commission's Rules of Practice and Procedure provides that the Commission will not approve settlements or stipulations, whether contested or not, unless they are reasonable in light of the whole record, consistent with law, and in the public interest. As discussed below, the proposed settlements meet these criteria.

The revenue requirement settlement adopts a revenue requirement that is below the mid-point of the range of values proposed by PacifiCorp and ORA.<sup>10</sup> It is based on more recent recorded information, a more recent depreciation study, and is consistent with recently adopted rates of return on equity for other energy companies. In addition, the settlement is unopposed. Therefore, it is reasonable in light of the whole record.

The revenue allocation and rate design settlement utilizes the revenue requirement proposed in the revenue requirement settlement, and imposes ORA's recommendation that the revenue requirement allocation to any customer class not exceed 2.5% over the system average increase of 4.7%. The rate design also eliminates an unneeded experimental rate schedule, and revises baseline allowances consistent with D.02-04-026. In addition, the revenue allocation and rate design settlement is an all-party settlement. Therefore, it is reasonable in light of the whole record.

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<sup>10</sup> Only PacifiCorp and ORA filed reports in this proceeding.

The parties represent that the settlements do not contravene any statute or Commission decision.<sup>11</sup> We agree. Therefore, the settlements are consistent with law.

The parties represent that there is strong public policy favoring settlements to avoid costly and protracted litigation. PacifiCorp and ORA say that the revenue requirement settlement is a reasonable compromise between ratepayer and shareholder interests, and grants PacifiCorp needed rate relief while mitigating the impact on ratepayers. The parties represent that the revenue allocation and rate design settlement reflects a reasonable balance between ratepayer and shareholder interests, and is a reasonable compromise between strongly-held views. For all of the above reasons, we believe that the settlements provide PacifiCorp an opportunity to earn a reasonable return while maintaining adequate reliable service to ratepayers at just and reasonable rates. Therefore, the settlements are in the public interest.

In addition, the following criteria are applicable to the revenue allocation and rate design settlement because it is an all-party settlement:<sup>12</sup>

- The settlement must command the unanimous sponsorship of all active parties to the proceeding.
- The sponsoring parties must be fairly representative of the affected interests.
- No term of the settlement may contravene statutory provisions or prior Commission decisions.

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<sup>11</sup> Only PacifiCorp and ORA make this assertion regarding the unopposed revenue requirement settlement.

<sup>12</sup> D.92-12-019, 46 CPUC 2d 538, 550-551 (1992).

- The settlement must convey to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

All active parties propose the revenue allocation and rate design settlement. ORA represents the interests of all customers. The California Farm Bureau Federation represents its constituents. Roseburg Forest Products represents itself. PacifiCorp represents itself. Therefore, the affected customers and PacifiCorp are fairly represented by the sponsoring parties. Nothing in the Settlement contravenes statutory provisions or prior Commission decisions. In addition, the revenue allocation and rate design settlement sufficiently states the revenue allocation and rate design to enable the Commission to fulfill its future regulatory obligations with respect to the parties and their interests. Therefore, the revenue allocation and rate design settlement satisfies the above criteria applicable to all-party settlements.

As discussed above, both settlements are reasonable in light of the whole record, consistent with law, and in the public interest. Also, the additional criteria applicable to all-party settlements have been satisfied by the revenue allocation and rate design settlement. Therefore, we will adopt the settlements.

The decision should be effective immediately so that the rates adopted herein can be put into effect as soon as possible.

#### VI. Compliance with Rate Reduction Statutes Pre and Post Deregulation/Restructuring

AB 1890 (Brulte, 1996) legislated a rate reduction for residential and small commercial customers through the inclusion of Pub. Util. Code § 368(a), which provided that rates for residential and small commercial customers were to be



reduced to a level at least 10% below the rates in effect on June 10, 1996.<sup>13</sup>

Subsequently, the legislature passed SB 85xx (Burton, 2001), which prevented the Commission from eliminating the 10% rate reduction on residential and small commercial customers because of the passage of time, or the end of the AB 1890 transition period.<sup>14</sup> Because SB 85xx's safeguarding of the 10% rate reduction prevails over AB 1890's schematic for the legislated rate reduction, the Commission must now undertake a thorough review of the revenue requirement and rate design of any electric utility before it can raise the rates for residential and small commercial customers.<sup>15</sup>

In D02-06-071, we granted PacificCorp an interim rate increase based on our determination that it was needed in order to provide PacificCorp with a reasonable opportunity to earn a return on equity of 5.8%, which we determined not to be excessive. The proceeding before us now is a general rate case in which we are to look comprehensively at PacificCorp's revenue requirement and true up the issues remaining from D.02-06-071. In this decision, the parties entered into uncontested settlements of all the general rate case issues for PacificCorp, including the rates necessary to achieve the revenue requirement. This proceeding constitutes the kind of thorough review of the revenue requirement and rate design of an electric utility contemplated by SB 85xx. Although the proposed decision in this proceeding resulted from settlements, rather than a litigated analysis of the revenue requirement and rate design, the proceeding and

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<sup>13</sup> All references are to the Public Utilities Code unless otherwise specified.

<sup>14</sup> Pub. Util. Code § 368.5 (a).

<sup>15</sup> SB 85xx § 3.

the settlements suffice for SB 85xx purposes as within the Commission's authority to institute a proceeding "to raise rates for reasons other than the termination of the 10-percent rate reduction set forth in subdivision (a) of Section 368."<sup>16</sup> The analysis contained herein discusses the reasons for the adopted revenue requirement and the resulting rate increases for all PacifiCorp customers, including the residential and small commercial customers.

#### VII. Comments on Proposed Decision

The proposed decision in this matter was mailed to the parties in accordance with § 311(d), and Rule 77.1 of the Commission's Rules of Practice and Procedure. No comments were filed.

#### VIII. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

#### Findings of Fact

1. The revenue requirement settlement adopts a revenue requirement that is below the mid-point of the range of values proposed by PacifiCorp and ORA.
2. The revenue requirement settlement is based on more recent recorded information and a more recent depreciation study, is consistent with recently adopted rates of return on equity for other energy companies, and is unopposed.
3. The revenue allocation and rate design all-party settlement utilizes the revenue requirement proposed in the revenue requirement settlement, and imposes ORA's recommendation that the revenue requirement allocation to any customer class not exceed 2.5% over the system average increase of 4.7%.

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<sup>16</sup> Section 368.5(b).

4. The revenue allocation and rate design settlement eliminates an unneeded experimental rate schedule, and revises baseline allowances consistent with D.02-04-026.

5. The settlements do not contravene any statute or Commission decision.

6. There is strong public policy favoring settlements to avoid costly and protracted litigation.

7. The revenue requirement settlement is a reasonable compromise between ratepayer and shareholder interests, and grants PacifiCorp needed rate relief while mitigating the impact on ratepayers.

8. The revenue allocation and rate design settlement reflects a reasonable balance between ratepayer and shareholder interests, and is a reasonable compromise between strongly-held views.

9. The settlements provide PacifiCorp an opportunity to earn a reasonable return while maintaining adequate reliable service to ratepayers at just and reasonable rates.

10. The revenue allocation and rate design settlement commands the unanimous sponsorship of all active parties to the proceeding.

11. The parties sponsoring the revenue allocation and rate design settlement are fairly representative of the affected interests.

12. No term of the revenue allocation and rate design settlement contravenes statutory provisions or prior Commission decisions.

13. The revenue allocation and rate design settlement conveys to the Commission sufficient information to permit it to discharge its future regulatory obligations with respect to the parties and their interests.

#### Conclusions of Law

1. Pursuant to Rule 51.1(e) of the Commission's Rules of Practice and Procedure, the Commission will not approve settlements or stipulations, whether

contested or not, unless they are reasonable in light of the whole record, consistent with law, and in the public interest.

2. The settlements are reasonable in light of the whole record, consistent with law, and in the public interest.

3. The revenue allocation and rate design settlement satisfies the criteria for approval of an all-party settlement.

4. The settlements should be adopted.

5. The decision should be effective immediately so that the rates adopted herein can be put into effect as soon as possible.

6. Section 368(a) provided that rates for residential and small commercial customers were to be reduced to a level at least 10% below the rates in effect on June 10, 1996. These rate levels were to remain in effect until March 31, 2002, or an earlier date as specified therein.

7. Section 368.5(a) states that “the commission may not subject those residential and small commercial customers to any rate increases or future rate obligations solely as a result of the termination of the 10-percent rate reduction.”

8. In D.02-06-071, the Commission granted PacifiCorp an interim rate increase based on its determination that an increase was needed in order to provide PacifiCorp with a reasonable opportunity to earn a return on equity of 5.8%, which the Commission determined not to be excessive.

9. The ending of the rate reduction required by § 368(a) is not the sole reason for the rate increases for residential and small commercial customers adopted herein.

10. This proceeding, and the settlements adopted herein, suffice for SB 85xx purposes as within the Commission’s authority to institute a proceeding to raise rates for reasons other than the termination of the 10% rate reduction set forth in § 368(a).

## O R D E R

**IT IS ORDERED** that:

1. The joint motion by PacifiCorp and the Commission's Office of Ratepayer Advocates to adopt a settlement of the revenue requirement, filed on June 20, 2003, is approved to the extent specified therein. The settlement of the revenue requirement is included as Attachment A to this decision.
2. The all-party joint motion to adopt a settlement of the revenue allocation and rate design, filed on July 7, 2003, is approved to the extent specified therein. The settlement of the revenue allocation and rate design is included as Attachment B to this decision.
3. The baseline allowances, referred to in Attachment B to this decision and included in Attachment C to this decision, are adopted.
4. Except to the extent specified in the settlements adopted above, the application is denied.
5. Within 10 days of today's date, PacificCorp shall file an advice letter with tariffs to implement the new rates approved by this Order. These tariffs shall become effective on the first day of the month following the date the advice letter is filed subject to Energy Division determining that they are in compliance with this Order.
6. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.