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May 8, 2006

Via Electronic and US Mail

Chairman Lee Beyer
Commissioner Ray Baum
Commissioner John Savage
Oregon Public Utility Commission
555 Capitol St. NE #215
Salem, OR 97308-2148

Re: PGE and PacifiCorp RTO Deferrals (UM 1256/UM 1257)

Dear Commissioners:

This letter reaffirms the Industrial Customers of Northwest Utilities' ("ICNU") opposition to the regional transmission organization ("RTO") deferral requests ("RTO Deferrals") made by PacifiCorp and Portland General Electric Company ("PGE") in Docket Nos. UM 1256 and 1257. As explained in ICNU's April 14, 2006 Response in Opposition ("Response"), the Oregon Public Utility Commission ("Commission" or "OPUC") should reject PacifiCorp's and PGE's RTO Deferrals because they violate the deferred accounting statute, are inconsistent with Commission precedent, and could allow the recovery of imprudent costs. In this letter, ICNU will not repeat the arguments made its Response, but will respond to the novel arguments in support of the RTO Deferrals raised in the Staff Reports.

The Staff Reports argue that PacifiCorp, PGE and Idaho Power Company (jointly, the Utilities) should be allowed to defer their past Grid West costs because these costs were allegedly treated as loans. According to the Staff Reports, these costs do not become expenses until the loans are in default, and thus, the rule against retroactive ratemaking should not apply. The Staff Reports state that the Attorney General supports Staff's opinion; however, they do not include any legal analysis from the Attorney General to support this theory.

The rule against retroactive ratemaking and the requirements of the deferred accounting statute cannot be avoided with accounting gimmicks. Under ORS § 757.259, the deferred accounting statute, the Commission only has the discretion to defer identifiable "utility expenses or revenues . . . beginning with the date of the application" Thus, a utility must obtain approval from the Commission prior to the

date of expending money or collecting revenues that it wishes to include in a deferred account.

The RTO related costs have been spent and the Commission cannot permit the deferral of past expenses merely because they have been described as loans. The commonly understood definition of an expense is a cost or “the act or practice of expending money: SPENDING.” WEBSTER’S NEW INT’L DICTIONARY, 800 (3d ed. 1993). According to the Utilities’ applications, the vast majority of these costs were spent over the past five years and before the deferred accounting requests were filed. The Commission cannot ignore the fact that the money was already expended and provide the utilities with retroactive authorization to defer money already spent.

In addition to being inconsistent with the deferred accounting statute, allowing the Utilities to defer these past costs would create a huge loophole. Under Staff’s proposal, the relevant analysis would be how the costs were financed, not when the money was actually spent. The Utilities could avoid the rule of retroactive ratemaking simply by calling costs “loans,” as there would be no reason why any disputed cost could not be disguised as a loan in order to allow a future deferral. Essentially, there may be no limit to the creative methods that the Utilities could propose to utilize this new exception to the rule against retroactive ratemaking.

Staff’s reasoning is also internally inconsistent. For example, under PGE’s deferral request, PGE would be allowed “to defer costs associated with loans with interest accruing at the FERC mandated rate of interest until such time as the loans default and become a current expense.” Staff Report, PGE UM 1256 Grid West Deferral at 3. PGE would be permitted to defer costs and accrue interest of these costs *before* Staff believes they even become a current expense. If the costs are not yet expenses (as is the case under Staff’s theory), then the Utilities should not be allowed to defer and recover interest on these costs until they actually become expenses. In addition, in the RTO Deferrals the Utilities are requesting approval to defer the original loans and the original interest that has been accumulating over the past five years. The deferred accounting statute, however, allows the deferral of expenses or revenues, not loans. Therefore, the Commission does not have the statutory authority to allow the utilities to defer any past costs associated with bad loans.

Both the RTO Deferrals themselves and the Staff Reports fail to adequately address the arguments raised in ICNU’s Response that the RTO Deferrals will not minimize rate changes or appropriately match costs and benefits. Without adequate support, the Staff Reports conclude that the RTO Deferrals may avoid the need to adjust rates to reflect RTO funding and will match costs and benefits. There is no evidence to support these claims. If these costs are truly future expenses, then they should be considered with all other costs in PacifiCorp’s and PGE’s pending rate cases. It is very likely that, if these costs were considered in a rate proceeding, they would either be excluded as imprudent costs or removed from the proposed test year as one time, nonrecurring costs. Since the Utilities are unlikely to be able to recover these costs in a

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rate proceeding, there is no basis upon which a deferral would minimize rate changes. Also, as explained in ICNU's Response, since Grid West is dissolving, there is no possible way in which these costs can be matched to a time in which ratepayers will receive any benefits. The deferral of these past expenses will not minimize rate changes or match costs and benefits, and the only reason the Utilities are proposing to defer these costs is that a deferral is their only hope to avoid the traditional ratemaking principles and obtain cost recovery for costs that ratepayers should not be responsible for paying.

Finally, as identified in ICNU's Response, the deferral of these past RTO-related costs also raises other legal and regulatory issues. In addition to significant prudence issues, the deferrals may allow the Utilities to recover costs associated with their investments in an RTO that never provided any useful or beneficial utility service to Oregon ratepayers. These issues should be fully reviewed before the inclusion of any costs in customer rates. ICNU urges you to deny the applications to defer the Grid West loans.

Sincerely yours,

/s/ Melinda J. Davison

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Via Electronic and U.S. Mail

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of PORTLAND GENERAL ELECTRIC
Application for Deferred Accounting Treatment of Certain Expenses Associated
with Grid West Loans
Docket No. UM 1256

Dear Filing Center:

Enclosed please find the original and four copies of the Letter of Melinda Davison on behalf of the Industrial Customers of Northwest Utilities to the Commissioners regarding PGE's and PacifiCorp's Grid West Deferral Applications.

Thank you for your assistance.

Sincerely,

/s/ Christian Griffen
Christian W. Griffen

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Letter of Melinda Davison on behalf of the Industrial Customers of Northwest Utilities upon the parties on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid.

Dated at Portland, Oregon, this 8th day of May, 2006.

/s/ Christian Griffen
Christian W. Griffen

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