

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1449**

INTERNATIONAL PAPER COMPANY,	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	
PACIFICORP, dba PACIFIC POWER,	)	INTERNATIONAL PAPER
	)	COMPANY'S EXPEDITED MOTION
	)	TO STRIKE DIRECT TESTIMONY OF
Defendant.	)	JIM SCHROEDER OR ALTERNATELY
	)	TO ACCEPT INTERNATIONAL
	)	PAPER'S COMPLAINT AND DIRECT
	)	PACIFICORP TO FILE AN ANSWER
	)	
	)	
	)	

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Pursuant to OAR § 860-013-0031, International Paper Company (“International Paper”) moves to strike the Direct Testimony of Jim Schroeder filed on behalf of PacifiCorp on October 23, 2009, along with all citations to that testimony in PacifiCorp’s concurrently filed Reply.<sup>1/</sup> This proceeding is still in a preliminary motions stage, without any guarantee of a hearing. Thus, PacifiCorp’s testimony filing is premature because International Paper may never have the opportunity to fairly cross-examine Mr. Schroeder in order to rebut his factual assertions. Furthermore, attaching testimony to a reply pleading is procedurally improper. International Paper asks for expedited consideration of this Motion.

In the alternative, International Paper moves the Public Utility Commission of Oregon to accept International Paper’s Complaint as properly filed, and

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<sup>1/</sup> PacifiCorp’s Reply to International Paper Company’s Response In Opposition to PacifiCorp’s Motions to Dismiss and for Extension of Time to Answer (“Reply”) was also filed on October 23, 2009. The Reply cites extensively to and relies upon Mr. Schroeder’s testimony.

to direct PacifiCorp to file an Answer in this proceeding. Taking this alternative course will afford both parties the ability to cross-examine witnesses at a hearing, and eliminate any unfairness issues or due process concerns that would otherwise exist.

Under the Internal Operating Guidelines, it is improper to include direct witness testimony in a reply pleading. International Paper has no opportunity to reply, conduct discovery, or otherwise respond to the witness's unsupported allegations. Thus, the Direct Testimony of Jim Schroeder on behalf of PacifiCorp should be stricken. Alternatively, the Complaint of International Paper should be accepted and PacifiCorp directed to file an Answer to assure that both parties are given the opportunity to cross-examine witnesses at a hearing. PacifiCorp has greatly delayed this proceeding with such procedural maneuvers; therefore, International Paper asks that its Motion be decided on an expedited basis.

Dated this 29th day of October, 2009.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Jesse E. Cowell

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October 29, 2009

*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 International Paper Company v. PacifiCorp  
**Docket No. UM 1449**

Dear Filing Center:

Enclosed please find the Expedited Motion to Strike on behalf of the International Paper Company in the above-referenced docket.

Thank you for your assistance.

Sincerely yours,

/s/ Allison M. Wils  
Allison M. Wils

Enclosures

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day filed the foregoing Expedited Motion to Strike on behalf of the International Paper Company, upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail.

Dated at Portland, Oregon, this 29th day of October, 2009.

/s/ Allison M. Wils

Allison M. Wils

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