Decision **PROPOSED DECISION OF ALJ GALVIN** (Mailed 3/21/2006)

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 a General Rate Increase and Implementation of an Energy Cost Adjustment Clause and a Post Test-Year Adjustment Mechanism.	Application 05-11-022 (Filed November 29, 2005)
Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of PacifiCorp. (U 901-E).	Investigation 06-03-002 (Filed March 2, 2006)

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Morrison & Foerster, LLP, by Peter W. Hanschen for Klamath Water Users Association; Berliner Law PLLC., by Roger Berliner, Attorney at Law; Hanson Bridgett, by Courtney M. Coates, and Frank J. DeMarco, Attorney at Law, for the County of Siskiyou; U.S. Department of the Interior, by Steve Palmer, Attorney at Law, for the U.S. Bureau of Reclamation and U.S. Fish and Wildlife Service; Karen N. Mills, Attorney at Law, for the California Farm Bureau Federation; Anderson & Poole, by Edward G. Poole, Attorney at Law, for Western Manufactured Housing Community Association; Davison Van Cleve, PC, by S. Bradley Van Cleve, Attorney at Law, for Roseburg Forest Products; Morisset, Schlosser, Jozwiak & McGaw, by Thomas P. Schlosser, Attorney at Law, and Grett L. Hurley, for Hoopa Valley Tribe; William F. Grader, Jr., Attorney at Law, and Glen H. Spain, for Pacific Coast Federation of Fishermen's Association; and James V. McCarthy and Steven E. Pedery, for Oregon Natural Resources Council, interested parties.

Diana L. Lee, Attorney at Law, for the Division of Ratepayer Advocates.

OPINION GRANTING INTERIM IRRIGATION RATES WITHIN THE KLAMATH RIVER IRRIGATION PROJECT

I. Summary

By this decision, a four-year transition plan is adopted to bring Klamath Irrigation Project (Project) customers that no longer qualify for fixed rates under a 1956 Contract between PacifiCorp and the United States Department of Interior (Interior) up to full PA-20 Irrigation tariff rates. This approval authorizes PacifiCorp to establish a Klamath Transition Memorandum Account (KTMA) and to seek recovery of the shortfall tracked in that memorandum account in subsequent hearings to be held in this proceeding. This approval also authorizes the Klamath Water Users Association (KWUA) to seek a separate rate classification for Project customers and to challenge the proposed level of generally applicable tariffed rates for irrigation customers in subsequent hearings to be held in this proceeding.[1]

II. Background

The Project is a federal reclamation project that was specifically authorized by the Secretary of the Interior in 1905. The Project service area is located within the vicinity of Klamath Falls, Oregon and encompasses reclamation and irrigation lands in the States of California and Oregon. The Project uses waters of the interrelated Lost River and Klamath River Basins including water controlled

[1] KWUA is a nonprofit corporation comprised of approximately 20 public agencies, most of which are irrigation districts, and many family farms and ranches and other agricultural-based businesses located in and around the Upper Klamath River Basin. Many KWUA members receive water for irrigation through facilities constructed or improved by Interior as part of the Project.

at Upper Klamath Lake through the Link River Dam. Water diverted into the project canals makes service available to nearly 200,000 acres of family farms and ranches within the Project service area.

In 1917, PacifiCorp's predecessor, California-Oregon Power Company, entered into a contract with the United States Bureau of Reclamation whereby PacifiCorp agreed to construct the Link River dam and convey it to the United States in exchange for the right to operate the dam for 50 years. The contract gave PacifiCorp authority to regulate Klamath River stream flows to its existing and future downstream hydroelectric facilities.

Under the terms of the 1917 Contract, PacifiCorp agreed to furnish power at stipulated rates for irrigation and drainage of lands within the Project through 1967. At the end of the 1917 Contract, PacifiCorp was operating five hydroelectric plants, three in Oregon and two in California for a total rated capacity of 51,560 kilowatts.

As the 1917 Contract neared the end of its 50-year term, Interior began studying the prospect of developing its own power resources on the Klamath River for the benefit of the Project. At about the same time, PacifiCorp applied for a federal license for a large, new hydroelectric facility. Interior protested PacifiCorp's license request and subsequently withdrew its protest in exchange for a license condition requiring PacifiCorp to execute a contract to continue providing power to the Project at terms acceptable to Interior.

On January 27, 1954, the Federal Energy Regulatory Commission (FERC), previously Federal Power Agency, granted PacificCorp its requested license conditioned upon PacifiCorp continuing to provide power to the Project and to provide special rates for irrigation and drainage pumping service in the Project

service area acceptable to Interior.[2] FERC then issued Opinion 266-A, supplementing and amending its order issuing the requested license.[3] In that decision, FERC required PacifiCorp to amend or renew the 1917 Contract with the United States.

PacifiCorp spent approximately two years negotiating a contract (1956 Contract) with Interior. The terms of the 1956 Contract allowed for PacifiCorp to continue regulating the level of water in Upper Klamath Lake for an additional 50 years. For this new contract, PacifiCorp agreed to provide electricity under its Schedule A (Code 40) for pumping Klamath River water for use on Project land and for drainage of Project land at $0.006 per kWh (kilowatt-hour), a $0.001 reduction from the 1917 Contract amount of $0.007. PacifiCorp also agreed to continue providing electricity to the United States government and its successors in interest under Schedule B (Code 33) for pumping water from Tule Lake and Lower Klamath Lake sumps and for irrigation within the beds of Tule Lake and Lower Klamath Lake at $0.005 kWh during peak hours and $0.003 per kWh during off-peak hours.

The 1956 Contract was brought before this Commission and the Oregon Commission for approval as it related to PacifiCorp's respective California and Oregon operations prior to being submitted to FERC in satisfaction of the license condition.

This Commission authorized PacifiCorp to carry out the terms and conditions of the 1956 Contract with the Interior as the Contract related to

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[2] The Federal Power Agency is now known as FERC. We consistently refer to FERC throughout this decision.

[3] See in the matter of the California Oregon Power Project No. 2082, 15 F.P.C. 14 (1956).

California, pursuant to Decision (D.) 52809, dated March 27, 1956. The 1956 Contract was also approved by the Oregon Commission. PacifiCorp then submitted the California and Oregon approvals to FERC in satisfaction of the license condition.

The 1956 Contract expires on April 16, 2006. After that date, PacifiCorp no longer has a basis for serving Project customers at the 1956 Contract rates. If PacifiCorp is to continue providing electric service to Project customers in California, PacifiCorp must place those customers on either an established tariff or seek Commission authority to provide service on a new tariff.

III. Applicable Tariff Rate

On January 4, 2006, PacifiCorp filed Advice Letter No. 328-E seeking authority beginning April 17, 2006 to place its Project customers on its current Irrigation Schedule PA-20 tariff rate of $0.07928, an immediate 1,300% increase from the current $0.006, $0.005 and $0.003/kWh contract rates. PacifiCorp stated in that Advice Letter that the Project irrigation rate will also be subject to a subsequent rate change as part of this general rate case (GRC) proceeding.

At the same time, PacifiCorp recommended in this proceeding that Project area customers take electric service in California under PacifiCorp's Schedule PA-20 tariff at full tariff prices. KWUA, Interior, and other entities filed protests to PacifiCorp's Schedule PA-20 proposal.

At this proceeding's January 18, 2006 Prehearing Conference (PHC), all parties agreed to consider an interim irrigation proposal for Project customers pending a final decision in this proceeding. That PHC was continued to January 30, 2006 at which time PacifiCorp, KWUA, and Interior presented their joint agreement on a transition of Irrigation rates to begin at the conclusion of the 1957 Contract.

All parties agreed to an expedited hearing schedule which included the foregoing of opening and reply briefs for an oral argument at the conclusion of the March 7, 2006 evidentiary hearing and a shortened draft decision comment period so that the Commission may vote and issue a decision on interim rates for Project customers prior to the April 16, 2006 contract expiration date.

IV. Transition Rate Plan

The transition rate plan proposed by PacifiCorp, KWUA, and Interior is attached to this decision as Appendix A. The plan provides for a four-year, five-step plan to transition Project customers to full tariff pricing by April 17, 2010.[4]

For the first two years, project customers will be billed a fixed per kWh charge for energy consumption. No load size charges or other demand-based charges will be applicable to Project customers during this time period.

Most Project customers will experience an immediate 333% rate increase to $0.026/kWh from $0.006/kWh, effective April 17, 2006. That rate will be adjusted by the overall percentage increase approved by the Commission in this proceeding, when new rates become effective, currently projected at January 1, 2007. Effective April 17, 2007, the fixed rate will be increased to $0.0385/kWh plus a further adjustment by the same overall percentage impact when rates become effective from this proceeding, capped at $0.040/kWh. On or about January 1, 2008, this rate will further be adjusted by the overall percentage impact of attrition mechanisms (Energy Cost Adjustment Mechanism (ECAM)

[4] Oregon Senate Bill 81 (2005) requires a seven-year maximum phase-in of increased rates for Oregon Project customers. Rates may increase a maximum of 50% over the rate that is charged in the prior year.

and Post Test-Year Adjustment Mechanism (PTAM)) that may be approved in this proceeding, subject to a $0.042/kWh cap.

For the remaining two years, Project customers will be billed according to the terms of the then-applicable standard tariff rate schedule, including load size and other demand-based charges, less a 40% discount in Year Three and 20% in Year Four. At the end of the fourth year, Project customers will pay the full rate of the then applicable standard tariff.

The transition plan also provides for the creation of a memorandum account to track deferral of the revenue shortfall associated with the transition plan beginning April 17, 2006 and continuing until rates are effective in this GRC proceeding, currently projected at January 1, 2007.[5] A memorandum account is a deferral account wherein costs may be accumulated for potential recovery at some future point.[6] PacifiCorp will seek recovery of the shortfall incurred in 2006 estimated at $2.4 million in test year 2007. Shortfalls associated with the remaining term of the transition plan will be recovered from all non-Project California customers by an equal percentage increase. Finally, KWUA is to have an opportunity to argue in this proceeding that PacifiCorp's PA-20 tariff is not the appropriate tariff applicable to Project customers and may present proposals for a separate tariff classification in this proceeding.

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[5] The Exhibit 1 draft memorandum account preliminary statement as clarified in the Reporter's Transcript Vol. 1, p. 81, provides for the application of a carrying charge on the average monthly balance based on PacifiCorp's authorized return on equity. To the extent this memorandum account may be authorized, the carrying cost should be based on the same basis as other memorandum accounts under this Commission's jurisdiction. That basis is at the rate earned on prime, three-month commercial paper rate, as reported in Federal Reserve Statistical Release H.15.

[6] Reporter's Transcript Vol. 1, p. 81.

A. Support

PacifiCorp, KWUA, and Interior support the transition plan.[7]

PacifiCorp supports the transition plan even though it could not conclude from a cost to serve perspective that Project customer provide quantifiable operational benefits to the PacifiCorp system. This is because full transition to its PA-20 tariff will be a huge percentage increase to a very small number of its customers (approximately 630 of 45,000 California customers) and create a pronounced change in the role of electricity costs in the production process of these customers. While the circumstances of Project customers and existence of the 1917 and 1956 Contracts are unique to PacifiCorp, it contends that this Commission has on many occasions taken steps to moderate the impact of rate changes on a particular customer class.[8] PacifiCorp believes that a reasonably short transition period to full tariff rates will mitigate the impact of economic dislocation on Project customers and limit the level of the revenue shortfall assigned to non-Project California customers.

KWUA asserts that inexpensive sources of electricity are necessary to carry out the purposes of the Project which is based on circulating large quantities of water throughout the project area for national wildlife refuges and irrigation purposes and then returning large quantities of water to the Klamath

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[7] Correspondence supporting the transition plan was received from various interested parties including the American Rivers, California Trout, Karuk Tribe of California, Klamath Forest Alliance, The Klamath tribes, Modoc County Supervisor District 5, Northern California/Nevada Council of Fly Fishers, Pacific Coast Federation of Fishermen's Associations, Salmon River Restoration Council, Trout Unlimited, Waterwatch, and World Wildlife Fund.

[8] See, for example, 65CPUC 2d 362 at 408, Southern California Edison Company's 1996 GRC decision.

River for electric generation purposes. KWUA contends that the 1,300% increase to full PA-20 rates after almost 90 years of low cost electricity will result in extreme rate shock. It will also be prohibitive for Project customers to absorb such a large increase into their respective operations over a short period of time.

KWUA explains that the operating margins for Project customers are very thin and cannot absorb anything near a 1,300% increase in one of the primary cost components for agricultural operations. These Project customers not only pay for their own electric usage, they must reimburse irrigation districts and the Bureau of Reclamation for the increased cost that those agencies experience. Further, the Project customers and irrigation districts have already set their budgets for the 2006 growing season and have acquired crop loans and assigned assessments for 2006.

KWUA concludes that the appropriate way to mitigate rate shock and to avoid severe economic problems for Project customers is to transition rates over a four–year period based on a full tariff rate that may be a tariff other than Corp's Irrigation PA-20 tariff.

Interior, while not providing direct testimony in this proceeding is on record in its protest of PacifiCorp's license request to build the Big Bend Project on the Klamath River that without low cost power, many thousands of acres in the project would be forced out of production. It further contends that if the water is not available for development of power, the success or failure of a majority of the farmers within the project will depend entirely upon what rate PacifiCorp shall charge.[9]

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[9] Protest of the United States to the Application for License of the California-Oregon Power Company; Project No. 180, June 1, 1951.

B. Opposition

The County of Siskiyou (Siskiyou) and the Division of Ratepayer Advocates (DRA) oppose the transition plan as proposed.

The opposition of Siskiyou is based on a lack of equitable treatment among PacifiCorp's California ratepayers. Siskiyou finds that while some small farms in the Project area will benefit from this arrangement, the majority of the benefit will go to 10% of Project customers who use more than 100,000 kWh annually and more than 50% of the power consumed by PacifiCorp's entire irrigation class.

Siskiyou could find no benefit flowing to PacifiCorp's California non-Project customers. It cited both PacifiCorp's acknowledgment that ratepayers receive no benefit out of this arrangement and results of its own investigation. It also found that PacifiCorp began discussions nearly four years ago (2002) with Project customers on the rate charge will take place. Siskiyou contends that the allocation of Project customers' shortfall to PacifiCorp's remaining ratepayers inappropriately requires non-Project California customers who can least afford to pay higher electricity rates to subsidize Project customers fortunate enough to have rates a fraction of what the non-Project customers have paid since 1917.[10]

DRA's opposition is also based on the lack of equitable treatment among PacifiCorp's California customers. According to DRA, PacifiCorp's entire system, a multi-state system having an interconnected electrical grid of which California has traditionally been allocated approximately 2% of costs, received

[10] The medium income in Siskiyou County is only $29,281 in comparison to the overall California medium income of $49,924.

benefit from the FERC's license associated with the 1956 Contract. DRA believes that the entire system should continue to share that cost subsidy during the proposed transition period.

DRA identified the California subsidy associated with the 1956 Contract, approved in PacifiCorp's prior GRC proceeding, to have been $68,000 on an annual basis.[11] PacifiCorp's unilateral discontinuance of its multi-state cost allocation associated with the 1956 Contract hydro facilities shifts a $3.4 million subsidy from the other states to California.

DRA also finds that large Project customers, including Interior, would not suffer a significant hardship if they are required to pay full tariff rates. However, it does acknowledge that smaller Project customers using less than 100,000 kWh per year may be adversely impacted. For those smaller customers, DRA does not oppose the establishment of a transition rate. In this regard, DRA recommends that a transition rate for small Project customers should be set at a level that at least covers applicable transmission and generation costs. It recommends that a transition rate floor be no lower than 52% of the applicable tariff rate, or $0.041 per kWh with appropriate upward adjustments to full tariff rates during the transition period.

C. Discussion

Under the proposed transition plan, PacifiCorp benefit from the ability to collect its full tariff rates applicable to energy usage of Project customers irrespective of what rate Project customers are billed. Project customers will also benefit. Their benefit will come from paying less than full tariff rates for the next

[11] D.03-11-018 (2003) approved a settlement resolving GRC rate case issues arising from PacifiCorp's Application 01-03-026.

four-years. An added benefit to Project customers is their ability to seek a rate classification distinctly lower and separate from non-Project irrigation customers. To the extent that a separate rate classification is established, Project customers will receive further benefit through a phase-in to full tariff rates over the transition period.

The following tabulation compares the Project customers' average rate under both the proposed transition plan and under current and proposed PA-20 rates.[12] The estimated $7.4 million shortfall over the entire transition period is to be spread on an equal percentage basis to non-Project customers' bills, resulting in an increase of approximately 2.4% over the transition period. The amount and percentage are based on PacifiCorp's requested test year 2007 application and cost allocations subject to a subsequent hearing in this proceeding. To the extent that PacifiCorp's total request is not adopted and/or a separate rate classification is adopted for Project customers the above identified amounts will be lower.

[12] These are approximate numbers which assume PacifiCorp's 15.6% requested test year 2007 increase is granted, the requested energy cost adjustment clause (ECAC) is granted and there is a 2.0% ECAC adjustment at January 1st of 2008, 2009, and 2010.

DATE	TRANSITION RATE (Cents/kWh)	FULL RATE (Cents/kWh)	DIFFERENCE (Cents/kWh)
Present	0.600	9.419	8.819
April 17, 2006	2.600	9.419	6.819
January 1, 2007	3.007	10.994	7.924
April 17, 2007	4.000	10.994	6.994
January 1, 2008	4.080	11.214	7.134
April 17, 2008	6.728	11.214	4.486
January 1, 2009	6.863	11.438	4.575
April 17, 2009	9.151	11.438	2.287
January 1, 2010	9.334	11.667	2.333
April 17, 2010	11.667	11.667	0

Clearly, the transition plan is beneficial to both PacifiCorp and Project customers.

The benefits of this plan are not as evident for PacifiCorp's non-Project irrigation customers or its other customers, including residential and business. These other customers will be required to continue paying full tariff rates as well as to absorb the difference between what Project-customers actually pay and the full tariff rate during the transition period.

From the above discussion we can only conclude that the transition plan does not provide an equitable benefit to non-Project irrigation customers or to PacifiCorp's other non-Project customers. Therefore, we review D.52809 as to why we approved the 1956 Contract which included fixed energy usage rates for Project customers.

As detailed in that decision, PacifiCorp received the right to regulate the flow of water to its hydroelectric plants located on the Klamath River and to construct and operate a new hydroelectric facility on the same river. This right to regulate the flow of water enabled PacifiCorp to efficiently operate these hydroelectric plants, to conserve water at times of scarcity on occasions when low-cost power was available for purchase, and to provide peaking capacity through the regulated release of water at the time of greatest need. The additional right to construct and operate a new hydroelectric facility enabled PacificCorp to further increase its peaking capacity.

We concluded from these facts that there was no unreasonable discrimination in the application of rates and charges contained in the 1956 Contract. This contract benefited all of PacifiCorp's customers by PacifiCorp's ability to reduce its overall power cost through a more efficient operation of its hydroelectric facilities and increased peaking capacity.

With the 1956 Contract expiring on April 16, 2006, PacifiCorp no longer has a basis to continue providing fixed rates to Project customers. The only existing tariff applicable to the energy usage of Project customers is PA-20. As previously mentioned, placing these Project customers on the PA-20 tariff would immediately raise the cost of their energy usage approximately 1,300%. Hence, the immediate issue before us is: What rate should Project customers pay beginning April 17, 2006? Should it be the full PA-20 tariff rate, a transition into the full tariff rate, or a distinctly separate rate classification?

This Commission has traditionally mitigated the impact of rate changes on particular customer classes through rate caps when a rate group may experience a significant increase in tariff rates. Although there exists no specific criteria or level at which this mitigation takes place, both PacifiCorp and DRA

acknowledge that mitigation does take place to transition customer classes up to full tariff rates.[13]

Project customers should be treated no differently than other customer classes faced with a substantial rate increase. This is particularily so since we previously found that there was no unreasonable discrimination in approval of the 1956 Contract and that the contract enabled PacifiCorp to reduce its overall power cost for all customers through a more efficient operation of its hydroelectric facilities and increased peaking capacity. It is reasonable and appropriate to implement a transition plan to bring Project customers up to full tariff rates. The proposed transition plan, providing for an immediate 333% increase in energy cost to Project customers and a short-term phase-in to full tariff rates, reasonably mitigates a substantial rate increase to Project customers due to the expiration of the 1956 Contract and should be adopted.

V. Comment Period

All parties at the January 30, 2006 PHC agreed to reduce the comment period regarding a decision on this phase of the proceeding so that the Commission may issue a decision in this matter at its April 13, 2006 meeting. Accordingly, as provided by Rule 77.7(g) of our Rules of Practice and Procedure, we reduce the otherwise applicable 30-day comment period for this decision.

VI. Categorization and Need for Hearing

PacifiCorp requested that this matter be categorized as ratesetting. By Resolution ALJ 176-3164, dated December 12, 2005, the Commission preliminarily determined that this was a ratesetting proceeding and that

[13] See PacifiCorp's Exhibit 2 and DRA testimony in Volume 2, RT 181 and 182.

hearings may be necessary. There was no objection to the ratesetting categorization.

Notice of the application appeared in the Commission's Daily Calendar of December 2, 2005. An evidentiary hearing was held on March 5 and 6, 2006 on this irrigation issues. Additional hearings will be scheduled for the remainder of this GRC proceeding.

VII. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Michael J. Galvin is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Project service area is located within the vicinity of Klamath Falls, Oregon and encompasses reclamation and irrigation lands in the States of California and Oregon.

2. The Project uses waters of the interrelated Lost River and Klamath River Basins including water controlled at Upper Klamath Lake through the Link River Dam.

3. Water diverted into the project canals makes service available to nearly 200,000 acres of family farms and ranches within the Project service area.

4. FERC, previously named Federal Power Agency, granted PacifiCorp a license to construct and operate a new hydroelectric facility on the Klamath River conditioned upon PacifiCorp continuing to provide power to the Project and to provide special rates for irrigation and drainage pumping service in the Project service area acceptable to Interior.

5. The terms of the 1956 Contract allowed PacifiCorp to continue regulating the level of water in Upper Klamath Lake for 50 years. As per this new contract,

PacifiCorp agreed to provide electricity at low fixed rates for use on Project land and for drainage of Project land.

6. This Commission authorized PacifiCorp to carry out the terms and conditions of the 1956 Contract with the Interior as the Contract related to California.

7. In approving the 1956 Contract we found that there was no unreasonable discrimination in approval of that contract and that the contract enabled PacifiCorp to reduce its overall power costs for all customers and to increase its peaking capacity.

8. The 1956 Contract expires on April 16, 2006. After that date, PacifiCorp no longer has a basis for serving Project customers at the 1956 Contract rates.

9. PacifiCorp filed Advice Letter No. 328-E seeking authority to place its Project customers beginning April 17, 2006 on its current Irrigation Schedule PA-20 tariff rate.

10. All parties agreed to consider an interim irrigation proposal for Project customers pending a final decision in this proceeding.

11. PacifiCorp, KWUA, and Interior proposed a transition rate plan which provided for an immediate 333% increase in Project customers' rates.

12. All parties agreed to an expedited hearing schedule which included the foregoing of opening and reply briefs for an oral argument, a shortened draft decision comment period, and reduced public review and comment period so that the Commission may issue a decision on interim rates for Project customers prior to the April 16, 2006 contract expiration date.

13. This Commission has traditionally mitigated the impact of rate changes on particular customer classes through rate caps when a rate group may experience a significant increase in tariff rates.

14. Full transition of Project customers to the PA-20 tariff will be a huge percentage increase, approximately 1,300%, to a very small number of customers (approximately 630 of 45,000 California customers).

15. A memorandum account is a deferral account wherein costs may be accumulated for potential recovery at some future point.

16. The estimated $7.4 million shortfall over the entire transition period will increase non-Project customers' bills by approximately 2.4% if PacifiCorp's entire GRC request is subsequently approved.

Conclusions of Law

1. Project customers should be treated no differently than other customer classes faced with a substantial rate increase.

2. It is reasonable and appropriate to implement a transition plan to bring Project customers up to full tariff rates.

3. The proposed transition plan, providing for an immediate 333% increase in energy cost to Project customers and a short-term phase-in to full tariff rates reasonably mitigates a substantial rate increase to Project customers.

4. The proposed transition plan is reasonable in light of the whole record, consistent with the law, and in the public interest.

5. The proposed transition plan should be granted to the extent provided for in the following orders.

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

O R D E R

IT IS ORDERED that:

1. The PacifiCorp, Klamath Water Users Association (KWUA) and United States Department of Interior's agreement on Irrigation transition rates is adopted, as set forth in Appendix A.

2. Within 5 days of today's date, PacifiCorp shall withdraw its January 4, 2006 Advice Letter No. 328-E proposing to charge full tariff rates to the Klamath Irrigation Project customers.

3. PacifiCorp is authorized to establish a Klamath Transition Memorandum Account (KTMA) as set forth in Appendix B. This memorandum account shall track the shortfall associated with the transition plan beginning April 17, 2006 and ending on the effective date of the rate change resulting from PacifiCorp's pending general rate case. Interest shall accrue at the rate earned on prime, three-month commercial paper rate, as reported in the Federal Reserve Statistical Release H.15. PacifiCorp may seek recovery of this shortfall in subsequent hearings to be held in this proceeding.

4. KWUA may argue in this proceeding that PacifiCorp's PA-20 tariff is not the appropriate tariff applicable to Klamath Irrigation Project customers and may present proposals for a separate tariff classification. To the extent that KWUA is successful in establishing a separate tariff classification, we may revisit the transition plan being approved in this order to assess the need to modify the transition plan.

5. Within 5 days of today's date, PacifiCorp shall file an advice letter with appropriate tariffs to implement the new rates approved by this Order. These tariffs shall become effective on April 17, 2006 subject to Energy Division determining that they are in compliance with this Order.

6. Application 05-11-022 and Investigation 06-03-002 remain open to address recovery of the KTMA, a general rate increase for test year 2007, implementation of energy cost adjustment clause and a post test-year adjustment mechanism.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

APPENDIX A

Agreement of PacifiCorp, Klamath Water Users Association and Interior on Irrigation Transition Rates

PacifiCorp, the Klamath Water Users Association ("KWUA"), and the Department of Interior ("DOI") have reached an agreement on a transition plan which is designed to move existing customers (the "Project Customers") covered by the 1956 contract between PacifiCorp's predecessor, the California – Oregon Power Company, and the DOI from the current contract rates of $0.006/kWh (6 mills) to full tariff rates, currently schedule PA-20, over a four-year period.* This transition will commence on the day following the expiration of the existing 50-year rate contract, April 16, 2006, and will continue through April 17, 2010, when these Project Customers will begin to pay full applicable tariff rates.

This transition period is proposed by the parties in recognition of the rate shock that would be created by an immediate move to full tariff rates and in order to provide an orderly movement from contract rates to full applicable tariff rates while minimizing the economic dislocation for such Project Customers. The effective average rate for Project Customers under current schedule PA-20 is approximately 100 mills, thus immediate movement to full tariff levels would require an increase of more than 1600%.

The agreement anticipates that other California customers of PacifiCorp would pay rates during the transition period sufficient to cover the differential between the phase-in rates and full tariff rate levels, and calls for the support of the KWUA of such recovery. The agreement also provides an opportunity, in the context of this general rate proceeding ("GRC"), for the KWUA to make its arguments to the Commission in support of the creation of a separate rate classification for Project Customers and/or to challenge the proposed level of the generally applicable tariff rate for irrigation customers.

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* For DOI, the contract rates range from $0.003 per kWh to $0.005 per kWh.

The proposed transition plan is as follows:

Step 1	April 17, 2006	Rates move up from 6 mills to 26 mills, an increase of 333%.
Step 1A[+]	January 1, 2007	Rates are adjusted upward by the percentage increase in overall California system rates awarded by the Commission in this GRC. For example, a 10% system rate increase would result in a further 2.6 mill increase in Project Customers' rates.
Step 2	April 17, 2007	Rates move up to 38.5 mills, as adjusted by the overall increase awarded in the GRC, subject to a cap of 40 mills. For example, a 10% GRC increase would invoke the 40 mill cap. The effective increase from contract levels is now 666%, although the step increase is about 50%.
Step 2A	Jan. 1, 2008	The rate in effect as of April 17, 2007 would be adjusted upward to reflect the percentage increase in California system rates afforded by the operation of attrition and ECAC adjustments, if any, awarded by the Commission for January 1, 2008. This increase would be subject to a cap of 42 mills on the effective transition rate.
Step 3	April 17, 2008	The Project Customers' transition rate will change from the flat rate basis described in steps 1 through 2A, to a percentage discount from full applicable tariff rate levels in effect at the time. The discount for this step is 40%. If, for example, the effective full applicable tariff rate level for Project Customers in April 2008 is 100 mills, the effective Project Customers' transition rate would be 60 mills. Similarly, if the effective full applicable tariff rate level is 110 mills, the transition rate would be 66 mills. The increase is 1100% at this point -- the step increase is about 50%.
Step 3A	Jan. 1, 2009	If the applicable tariff rate is adjusted for attrition and ECAC, the discount would apply to that adjusted rate.
Step 4	April 17, 2009	The discount from the full effective tariff rate is decreased to 20%. If the effective tariff rate is 110 mills, the phase-in rate is 88 mills.
Step 4A	Jan. 1, 2010	If the applicable tariff rate is adjusted for attrition and ECAC, the discount would apply to that adjusted rate.
Step 5	April 17, 2010	The Project Customers move to full applicable tariff rates.

[+] While the parties anticipate a rate change on January 1, this step increase would be effective on the effective date, if any, of the commission's decision.

Other provisions of the proposed transition plan:

1) The KWUA and DOI will support the creation of a Memo Account for tracking of any revenue shortfall that may occur as a result of implementation of transition rates in April 2006. PacifiCorp will seek Commission approval in the context of this GRC proceeding for recovery of the shortfall incurred in 2006 amortized in rates beginning January 1, 2007.

2) The KWUA and DOI will support the company's request for recovery of transition revenue shortfalls, if any, over the period of the transition from other California customers.

3) The KWUA and DOI may, in the context of this GRC, argue that rate schedule PA-20 is not appropriate and present proposals for creation of a separate tariff for application to Project Customers and may, in that process, present evidence and argument regarding the cost of such service and benefits provided by Project Customers.

4) PacifiCorp, KWUA, and DOI will urge the Commission to adopt this transition plan on an expedited basis and in time for its implementation beginning April 17, 2006.

5) Nothing herein shall prevent, preclude or be interpreted in any way as preventing KWUA seeking rehearing of, appealing or seeking redress of the Federal Energy Regulatory Commission's January 20, 2006 Order Denying Petition for Declaratory Order and Issuing Notice of Proposed Adjustment of Annual Charges for the Use of a Governmental Dam in Project Nos.2082-039 and 2082-040.

6) Nothing herein shall prevent or preclude or in any way prejudice KWUA from seeking legislation regarding or relating to electric rates and terms of service to be charged to Project Customers.

7) This settlement regarding transition rates applies to California only and the particular circumstances of that jurisdiction. The parties agree that it is irrelevant and shall not be introduced in proceedings in the State of Oregon.

8) To the extent that they do not add incremental load, it is the intent of the parties that new meters installed after April 17, 2006, would be eligible for the transition rates described herein.

(END OF APPENDIX A)

APPENDIX B

Pacific Power & Light Company
Portland, Oregon

Cal.P.U.C.Sheet No. XXXXX

PRELIMINARY STATEMENT (Continued)
PART C

4. KLAMATH TRANSITION MEMORANDUM ACCOUNT (KTMA)

Klamath Transition Memorandum Account (KTMA)

a. Purpose

PacifiCorp is authorized to establish a memorandum account to record the revenue shortfall associated with the Klamath Irrigator transition plan adopted by the California Public Utilities Commission in D._____, issued April 00, 2006. The transition related revenue shortfall will be accumulated in the KTMA during the period beginning April 17, 2006 and ending on the effective date of the rate change resulting from PacifiCorp's currently pending general rate case (A.05-11-022).

b. Operation of the KTMA

(1) A monthly debit entry shall be booked to the KTMA for the amount of the revenue shortfall which shall be the difference between the aggregate of the Klamath Irrigators' monthly bills, based on the 26 mills per kWh rate under the Step 1 of the transition plan, and the aggregate of Klamath Irrigators' bills based on the currently authorized Tariff Schedule PA-20. This monthly entry shall begin in April 2006 and continue through the month in which rates are effective from A.05-11-022.

(2) A monthly debit entry shall be booked to the KTMA for interest on the average monthly balance, and shall be determined by applying the rate earned on prime, three-month commercial paper rate, as reported in the Federal Reserve Statistical Release H.15 to the average of the KTMA balance on the first and last day of each month. This monthly entry shall begin in April 2006 and continue on a monthly basis as long as the beginning and ending monthly balance produce a positive average balance in the KTMA.

c. Disposition of the Balance

(1) Recovery of the shortfall tracked in the KTMA will be addressed in A.05-11-022 and will be subject to CPUC approval.

(Continued)

(END OF APPENDIX B)