BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1081

In the matter of PORTLAND GENERAL ELECTRIC COMPANY Investigation Into Direct Access Issues for Industrial and Commercial Customers under SB 1149	EPCOR MERCHANT AND CAPITAL (US) Inc. **OPENING BRIEF**

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I. Introduction

Pursuant to OAR §§ 860-014-0090 and 860-013-0040, and the Administrative Law Judge's ("ALJ") June 29, 2004, Ruling, EPCOR Merchant and Capital (US) Inc. ("EPCOR") submits this Opening Brief requesting that the Oregon Public Utility Commission ("Commission") reject those parts of PacifiCorp's proposed interim transition adjustment (the "Transition Adjustment") that are contrary to the evidence and the Commission's policy to encourage direct access, and to adopt EPCOR's changes to the proposed interim Transition Adjustment.

PacifiCorp's proposed interim Transition Adjustment would deny transition credits for transmission capacity that is freed-up by direct access. PacifiCorp argues both that no transmission capacity is freed-up by direct access, and that it will fully utilize the same capacity for other purposes, forcing PacifiCorp to establish a balancing account for purchases of incremental transmission capacity needed to sell freed-up power. The Commission should reject PacifiCorp's inconsistent proposal.

The Commission should find, at a minimum, that PacifiCorp will fully utilize transmission capacity used to serve direct access customers. PacifiCorp's payment for freed-up capacity economic, and the benefit should be returned to direct access customers through a transmission credit to avoid cost shifting to other customers or investors. PacifiCorp's witness testified that PacifiCorp can do buy-sell arrangements using the freed-up capacity, and the Commission should further order PacifiCorp to enter into buy-sell arrangements with energy service suppliers ("ESSs").

This proceeding addresses an interim Transition Adjustment. However, evidence introduced addresses PacifiCorp's strategy for both power and transmission service to serve PacifiCorp's growing load. Direct access enables PacifiCorp to avoid purchasing transmission service, as well as power, probably from Bonneville Power Administration's ("Bonneville") tariff rates for new or embedded cost transmission facilities. The Commission should assure that PacifiCorp's interim Transition Adjustment is structured to enable the economic benefits of avoided transmission costs, made possible by transmission capacity freed-up by direct access customers, are captured in the Transition Adjustment, whether that happens this year, in 2005, or 2006.

II. Background

The Commission initiated these proceedings in *In the Matter of an Investigation Into Direct Access Issues for Industrial and Commercial Customers under SB 1149*, Commission Order No. 03-260. PacifiCorp filed a proposed transition adjustment (hereafter, "Transition Adjustment") to resolve issues in this docket on April, 14, 2004.

EPCOR filed Direct Testimony on May 27, 2004. Industrial Customer's of Northwest Utilities ("ICNU") filed Direct Testimony on May 27, 2004. Oregon Public

Utility Commission staff ("Staff") filed Direct Testimony on May 28, 2004. PacifiCorp filed Rebuttal Testimony on June 24, 2004. PacifiCorp's Rebuttal Testimony included a revised, proposed Transition Adjustment. ICNU filed Supplemental Testimony of Lincoln Wolverton on July 12, 2004. A hearing was held for the purpose of conducting cross-examination on July 14, 2004. ALJ Kirkpatrick ordered the opening brief due on August 3, 2003.

III. Standard of Review and Burden of Proof

A Transition Adjustment is an adjustment to rates for service to direct access customers. A Transition Adjustment is either a transition "charge or fee that recovers all or a portion of an uneconomic utility investment" (ORS 757.600(31), "Transition Charge", or a transition "credit that returns to consumers all or a portion of the benefits from an economic utility investment" (ORS 757.600(32), "Transition Credit"). As with any proposed rate, the Commission must determine if a proposed Transition Adjustment is just and reasonable. ORS 757.210. PacifiCorp has the burden of showing that its proposed Transition Adjustment is just and reasonable. *Id.*

EPCOR identified the need to modify PacifiCorp's initial proposed Transition Adjustment by providing a Transition Credit for the cost of PacifiCorp's Bonneville transmission service. In the very near term, before PacifiCorp is in load resource balance, freed-up transmission service will be fully utilized by PacifiCorp. After PacifiCorp is in load – resource balance and needs to acquire additional power to serve load growth, freed-up transmission capacity will enable PacifiCorp to avoid purchasing additional transmission service from Bonneville at Bonneville's open access transmission tariff ("OATT") rates. EPCOR argued that PacifiCorp would be able to avoid purchasing power to serve direct access load. "Rather than base the Transition Adjustment calculation on the premise that PacifiCorp is selling energy freed up by a Direct Access customer, the calculation should be based on the concept that PacifiCorp *is avoiding purchases.*" EMC Exhibit 1 at 4 (emphasis in original). In rebuttal testimony, PacifiCorp said it would not sell freed-up power in every hour, and would fully utilize its freed-up transmission capacity. EPCOR argued that a Transition Credit is still appropriate. "[A]s the transition calculation is currently structured, it reflects no stranded benefit to those customers who depart the system freeing up transmission capacity." Cross-Examination of L. Whittles, Tr. at 130, lines 11-14. "With respect to transmission, if there is a freeing up of the resource that's existing, then that resource would be available to remaining ratepayers . . . ." *Id.*, lines 22-25.

Although EPCOR proposes a Transition Credit, the burden of proof does not shift to EPCOR to show that PacifiCorp's proposed Transition Adjustment is unjust and unreasonable. The Commission rejected the notion that a party opposing recovery of costs has the burden of persuading the Commission that such costs are not reasonable. Citing ORS 757.210,[1] the Commission held, "This burden is borne by the utility throughout the proceeding and does not shift to any other party." *In the Matter of PacifiCorp's Proposal to Restructure and Reprice its Services in Accordance with the Provisions of SB 1149*, Docket No. UE 116, Order No. 01-846 at 3.

The Commission must consider whether PacifiCorp's Transition Adjustment without a Transmission Credit for FPT transmission is just and reasonable. The Commission held in *In re Portland General Electric*, Docket No. UE 47/48, Order No. 87-1017 at 50, that the

[1] ORS 757.210: "At such hearing the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is just and reasonable."

Commission will decide whether a company's filing is just and reasonable based on issues raised by the parties and staff. The Commission reaffirmed its holding in *In Re PacifiCorp*, Docket No. UM 995/UE 121, Order No. 02-469. "In other words, we review the items the parties or ourselves have put at issue." *Id.* at 10. EPCOR's testimony raised the issue of a Transition Credit for FPT Transmission service costs. ("I would add, however, that as the transition charge is currently structured, it reflects no stranded benefit to those customers who depart the system freeing up transmission capacity." Cross-Examination of L. Whittles, Tr. at 130, lines 11-14.)

In an earlier proceeding, PacifiCorp argued that its BPA transmission agreements "preclude PacifiCorp from allowing the ESSs to use the transmission service to serve their load." *In the Matter of PacifiCorp's Proposal to Restructure and Reprice its Services in Accordance with the Provisions of SB 1149*, Docket No. UE 116, Order No. 01-846 at 2-3. PacifiCorp proposed that its BPA transmission rights "be retained until a customer chooses direct access" (*Id.* at 3), suggesting that the objected to use of FPT capacity was a transfer or assignment of FPT capacity. ICNU proposed a number of alternatives, including that PacifiCorp's transmission rights be assigned to customers. The Commission accepted PacifiCorp's proposal, and rejected ICNU's proposals, deciding that "reassignment or sale of transmission rights is not permitted." *Id.* at 4. However, the Commission did not decide the issues now before the Commission in this proceeding: how to allocate the costs of third-party transmission capacity that are freed-up by direct access customers, or whether PacifiCorp should use its Bonneville FPT transmission capacity to enter into a buy-sell arrangement in which PacifiCorp would buy power from an ESS, wheel the power to its system, and then resell the power to the same ESS for sale to a direct access customer.

IV. The Law

The Commission may include Transition Charges or Transition Credits that "*reasonably balance* the interests of retail electricity consumers and utility investors. The commission may determine that full or partial recovery of the costs of uneconomic utility investments, *or full or partial* pass-through of the benefits of economic utility investments to retail electricity consumers, is in the public interest. ORS 757.607(2). An uneconomic investment is a utility investment that was prudent when the investment or obligations were assumed, but the full costs of which cannot be recovered as a result of direct access. ORS 757.600(35). If, for example, direct access results in a significant loss of load, then a portion of a utility's investment in generation may become uneconomic because it is unable to recover those costs from remaining customers. To permit a utility to recover uneconomic investment, the Commission may allow a utility to recover a Transition Charge.

Conversely, economic investments are investments or obligations that were prudent at the time they were assumed but the full benefits are no longer available to consumers. ORS 757.600(10). If uneconomic investments result in costs that are no longer recoverable, absent a Transition Charge, then economic investments are negative costs to be paid through a Transition Credit. Economic investment and obligations benefit consumers that do not elect direct access, if a Transition Credit is not provided to direct access customers in the amount of the negative costs. Oregon law and policy give the Commission power to avoid such unwarranted cost shifting "provid[ing] credits that reasonably balance the interests of retail electricity consumers and utility investors." ORS 757.600(2).

V. PacifiCorp's Transmission Proposal

A. PacifiCorp's Transmission Capacity and BPA Contracts

PacifiCorp's Exhibit 400 identifies two transmission uses to deliver power to customers:

1. "Pac/State Wheel" from "Pac Generation" to "Customer;" and,
2. "Pac/FERC Wheel'" from the "Pac Border" to "Customer."

PacifiCorp agrees in Rebuttal Testimony that it should provide a Transition Credit for avoided losses for item 1. "Q. And the arrow between Pac generation and the customer is a credit? [Referring to Exhibit 400.] A. That's correct." Redirect Examination of C. Omohundro, Tr. at 30 lines 13-15. PacifiCorp proposes no Transition Adjustment for item 2. An ESS will purchase the transmission in item 2 to serve a direct access customer. The avoided cost of item 1 is treated the same as and essentially offsets the cost of item 2. ([Referring to Exhibit 400,] "I might note that the two small lines between Pac border and customer at the top and Pac generation and customer essentially offset each other." *Id.*,Tr. at lines 20-22.)

PacifiCorp's Exhibit 400 identifies three other transmission uses to wheel power either to the Mid-Columbia for sale, or to PacifiCorp's border:

a. "Pac/FERC Wheel" from "Pac Generation" to "Pac border;"

b. "BPA Wheel" from the "Pac border" to "Mid-Columbia;" and

c. "BPA Wheel" from "Mid-Columbia to "Pac Border."

PacifiCorp's rebuttal testimony eliminated the proposed Transition Charge to recover the cost of transmission service in a. and b. "PacifiCorp agrees to remove the FERC Regulated Transmission Wheel and Losses incurred to deliver power to the Mid-Columbia for a sale, as well as the BPA Wheel and Losses." PPL Exhibit 101 at 6, lines 11-13. "Q. So the charges that were associated with those two lines from the Pac generation to Mid-C are gone [PacifiCorp generation to PacifiCorp border, and from the PacifiCorp border to Mid-Columbia]. A. That's correct." Redirect Examination of C. Omohundro, Tr. at 31, lines 4-7.

The cost of the transmission identified in c., "BPA Wheel" from "Mid-Columbia to "Pac Border," "basically is the charge that the ESSs must incur to get power from Mid-C to our system. And it's labeled the BPA wheel." *Id.*,, lines 15-17. PacifiCorp said that the EPCOR and ICNU proposal "*assumes that PacifiCorp can free up transmission as a result of avoided purchases and resell it.* And we can't do that." *Id.*, lines 20-22 (emphasis added). This transmission capacity, which PacifiCorp denies can be freed-up and sold to an ESS or another entity, is identified in ICNU Exhibit 119 at 1.

Transmission Provider	Point of Receipt	Point of Delivery	Capacity MW	Description
BPA	Vantage (Mid-C)	Troutdale Vantage (Mid-C)	269	From Mid-C to Portland area

PacifiCorp is not seeking a Transition Charge for FPT transmission service from the Mid-Columbia to the Portland area. PPL Exhibit 101 at 6, lines 12-15. PacifiCorp opposes Transition Credits for items a., b. or c.

B. PacifiCorp Does Not Need A Transition Charge for Transmission

PacifiCorp does not seek a Transition Charge for its "Pac/FERC Wheel" in item a., or for its two "BPA Wheels" in items b. and c., is because PacifiCorp will not have an uneconomic investment in that transmission capacity as a result of direct access.

PacifiCorp's transmission system will be fully utilized even after direct access. If there is no uneconomic investment in transmission as a result of direct access, then a Transition Charge economic investment is not justified.

C. PacifiCorp Still Wants to be Able to Recover Transmission Costs Incurred in Sales of Freed-Up Power

PacifiCorp proposes that its costs of transmission service to make sales of freed-up power, if sales become necessary, be placed in a balancing account for later recovery. "The Company agrees that it will make a sale of freed-up power only if the market moves significantly or a large shift of load to direct access occurs during the open enrollment window. If the Company should make a sale in this instance [the market moves significantly or there is a large shift to direct access] the difference between the transacted and Forward Price Curve value of the freed-up power and *any incremental costs associated with the sale* will be placed in a balancing account." PPL Exhibit 101 at 8, lines 8-11 (emphasis added).

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D. Summary

Table 1
PacifiCorp's Long-term Transmission Service

Transmission Path/BPA Wheel	Transition Charge	Transition Credit
1. "Pac/State Wheel" from "Pac Generation" to "Customer" for losses		Yes
2. "Pac/FERC Wheel'" from the "Pac Border" to "Customer"	No	No
a. "Pac/FERC Wheel" from "Pac Generation" to "Pac border"	No	No
b. "BPA Wheel" from the "Pac border" to "Mid-Columbia" – FPT contract	No	No
c. "BPA Wheel" from "Mid-Columbia to "Pac Border" - FPT contract	No	No

VI. Argument

A. PacifiCorp's Treatment of FPT Transmission Agreement Costs is Anomalous

The effect of PacifiCorp's proposal is to ask the Commission to decide that PacifiCorp's FPT costs in items b. and c. associated with direct access are neither economic, nor uneconomic. In effect, PacifiCorp asks the Commission to pretend these costs do not exist for the purpose of calculating the Transition Adjustment. PacifiCorp's proposal is generous and supportive of direct access if a portion of PacifiCorp's FPT wheeling costs are uneconomic as a result of direct access. PacifiCorp's evidence, however, is that its transmission identified in items b. and c. will still be used for service to PacifiCorp's customers after direct access or for PacifiCorp's merchant function for the benefit of PacifiCorp's investors. "[T]he PacifiCorp C&T strategy is to reach a flat forward position for all time periods based upon *fully utilized transmission capacity*." PacifiCorp's Response to ICNU 7th Set Data Request 7.3, ICNU Exhibit 121 at 1 (emphasis added). PacifiCorp will fully utilize its contract rights after direct access. The transmission uses identified in items b. and c., the two FPT "BPA Wheels" to and from the Portland area to the Mid-Columbia, provide an economic benefit to PacifiCorp's system, and its remaining customers and its investors, and the Commission should order a Transition Credit in the amount of the economic benefit. The appropriate measure for determining the economic use of these transmission services is PacifiCorp's costs for BPA's FPT transmission service rate.[2]

PacifiCorp proposes that if PacifiCorp incurs transmission costs to sell freed-up power, such costs will be accounted for in a balancing account to avoid having its other, non-direct access customers bear such costs. Additional transmission costs will be incurred precisely because PacifiCorp will have "already balanced the system and utilized transmission to make purchases at the less expensive markets, and make sales at the more expensive markets." Cross-Examination of J. Apperson, Tr. at 64, lines 16-18.

PacifiCorp's proposal is incomplete because PacifiCorp is asking the Commission to simply ignore whether its transmission investment and FPT costs are economic or uneconomic as a result of direct access. PacifiCorp's proposal is not supported by the

[2] The Commission also should take into account PacifiCorp's contracts to purchase long-term firm transmission service to deliver power to and from the four market hubs, as proposed by ICNU. These transmission contracts are listed in ICNU Exhibit 116 at 1.

evidence. PacifiCorp submitted evidence showing that its transmission investment and FPT costs will be economic because PacifiCorp will fully utilize its transmission investment and the FPT contracts even after direct access. PacifiCorp's proposal is unbalanced because it accounts for incremental transmission costs to sell freed-up power, if such costs are incurred, but PacifiCorp's proposal does not recognize the benefits its other customers and investors realize from PacifiCorp's economic investment in its transmission system and FPT transmission agreements.

B. PacifiCorp's Need to Purchase Additional Transmission Service Shows Freed-Up FPT Transmission Service Will be Used by PacifiCorp

PacifiCorp states that it would sell freed-up power, if the amount of direct access load is sufficiently large. "We would like - - yes, we would likely make a sale, depending on the size of the direct access load. * * * * If - - for instance, if the load was relatively small, one or two megawatts, we would not. And that is because there are standard-size products in the market . . . ." Cross-Examination of J. Apperson, Tr. at 55, lines 24-56, line 4. If there is a sale, the incremental cost of the sale would go into a balancing account. Cross-Examination of C. Omohundro, Tr. at 26, lines 8-11.

Q. And what are those incremental costs?

A. The difference between the forward price curve that was used to set the transmission charge, and the actual transacted price at Mid-C.

Q. And are there transmission costs that would also be incurred?

A. If there are incremental transmission costs, we would also include those in the balancing account.

Id., lines 12-19. PacifiCorp's witness testified why is would be necessary for PacifiCorp to incur incremental transmission costs to sell a large amount of freed-up power.

> Q. So if there was 50 megawatts of direct-access load, is it your testimony that the most economical place to make that sale would be the Mid-Columbia?
>
> A. In a general sense, yes, that the most economical place to make that sale would be the Mid-Columbia.

And the reason for that is that in this general, theoretical discussion of what happens when a load leaves, we would generally or theoretically *have already* not only balanced the system, *but also utilized the transmission systems, the firm transmission rights of PacifiCorp, to, as I mentioned earlier, buy at the least expensive markets and sell at the most expensive markets*. Cross-Examination of J. Apperson, Tr. at 56-57 (emphasis added). PacifiCorp's witness acknowledges that the sale of a large amount of freed-up power might force PacifiCorp to purchase incremental transmission service because PacifiCorp has already utilized freed-up FPT transmission service to buy and sell power. Because PacifiCorp will use freed-up transmission service, and freed-up FPT transmission service will not be *un*economic, the Commission should provide a Transition Credit.

C. The Purpose of Transition Adjustments is to Avoid Unwarranted Shifting of Benefits, as well as Costs, Among Customers

PacifiCorp correctly states that "the purpose of the Transition Adjustment is to measure the impact of direct access on the utility and neutralize cost shifts between customers who go to market and those that remain on cost of service." PPL Exhibit 101 at 2, lines 12-15. Direct access programs approved by the Commission "must not cause the unwarranted shifting of costs to other retail electricity consumers." ORS 757.607(1). To that end, the Commission may establish both Transition Charges and Transition Credits.

A Transition Charge is a charge to a direct access customer that "recovers all or a portion of an *uneconomic* utility investment." ORS 756.600(31) (emphasis added). An uneconomic utility investment "means all electric company investments . . . that were prudent at the time the obligations were assumed but the full costs of which are *no longer recoverable* as a direct result of" direct access, "absent transition charge." ORS 756.600(35) (emphasis added).

PacifiCorp's proposal does not account for the other side of the equation. ORS 756.600(32) provides for the Commission to establish a Transition Credit "that returns to consumers all or a portion of the benefits from an *economic* utility investment." PacifiCorp's testimony is that all of its transmission capacity will be fully utilized even with direct access, which is the same as admitting that its transmission capacity, including FPT capacity, will still be economic after direct access. PacifiCorp believes this so strongly that it asks the Commission to establish a balancing account to recover incremental transmission costs if PacifiCorp must sell freed-up power.

D. PacifiCorp Can Do Buy-Sell Purchases with ESSs

PacifiCorp can purchase power from other entities at the Mid-Columbia hub, transmit its purchased power using its FPT transmission service from the Mid-Columbia hub to the Portland area, and then resell the power at its Portland area points of delivery.

Q. Can you do a purchase and resell using the FPT contracts?

A. No, we cannot. That is to say - - if I understand your question, do you mean resell the transmission?

Q. No, to buy power, wheel it over the transmission, and then resell it so someone else, the power.

A. Yes.

Cross-Examination of J. Apperson, Tr. At 72, lines 19-25. A buy-sell arrangement allows PacifiCorp to recover both its power purchase costs and its FPT transmission service costs.

Transition Credits should be provided for buy-sell arrangements. Incremental revenues from buy-sell arrangements are generated from FPT transmission service PacifiCorp is obligated to purchase. Transition Credits recognize that freed-up FPT capacity remains a valuable, economic obligation, and the benefits should be returned to direct access customers in the form of a Transition Credit. Otherwise, incremental revenues associated with buy-sell arrangements will benefit other customers or investors.

There is no reason why PacifiCorp cannot do a buy-sell arrangement with an ESS. A buy-sell arrangement with an ESS will promote direct access and competitive power markets. A buy-sell arrangement will avoid any issue about whether PacifiCorp is fully utilizing FPT transmission from the Mid-Columbia to PacifiCorp's system. A buy-sell arrangement will generate transmission revenues, because the cost of FPT transmission will be included in the price for power delivered at PacifiCorp's Oregon system. If the Commission doubts whether PacifiCorp will fully utilize freed-up FPT capacity, the Commission should direct PacifiCorp to enter into buy-sell arrangements with ESSs, as PacifiCorp's witness testified was permitted. *Id.*

E. PacifiCorp Incorrectly Claims that the Cost of Freed-Up FPT Service is Unavoidable

1. PacifiCorp has Six Reasons why FPT Costs are Unavoidable

PacifiCorp claims that its "third-party wheeling to and from Mid-Columbia is purchased through long-term contracts and is not avoidable." Rebuttal Testimony of John A. Apperson, Exhibit PPL 205 at 6. PacifiCorp's witness listed six reasons why PacifiCorp must hold and pay for transmission service freed up by direct access customers, and not use the service for another purpose.

a. PacifiCorp "must accept a return of the load obligation in the event that their third party supplier defaults. Apperson Rebuttal, PPL 205 at 7.

b. PacifiCorp "must accept a return of the load obligation . . . if the load returns under other circumstances." *Id.*

c. Selling transmission capacity "would probably not recoup the initial purchase expense because the transmission capacity can not be sold for a price higher that [sic] its purchase price per FERC rules." *Id.*

d. A third party probably would "not purchase a Mid C wheel to a specific company interconnection at full price every hour." *Id.*

e. The "market of resale of transmission capacity is very illiquid." *Id.*

f. Resale of "PacifiCorp's BPA long-term wheeling rights is specifically prohibited." *Id.*

PacifiCorp's list of reasons is puzzling. Only the last reason makes any difference. If PacifiCorp is prohibited from selling or assigning its FPT capacity rights, the preceding five reasons are immaterial. Presumably, PacifiCorp's sale or assignment of its FPT capacity rights is barred by the terms of the FPT agreements. However, the first five reasons identified by PacifiCorp are false.

2. Holding FPT Transmission is Unsupported by Evidence

The first and second reasons, that PacifiCorp must hold FPT transmission as insurance against the return of direct access customers, assume that PacifiCorp will be unable to serve direct access customers using new, replacement transmission service in the event that PacifiCorp sold or assigned freed-up FPT transmission service. PacifiCorp introduced no evidence to support this conclusion. PacifiCorp's position also is illogical. PacifiCorp itself assumes that an energy service supplier (an "ESS") may serve direct access customers by arranging for delivery to PacifiCorp's Oregon system from the Mid-Columbia. If an ESS can arrange for transmission service to serve direct access load, then PacifiCorp should be able to do the same thing if direct access load returns to PacifiCorp service.

PacifiCorp assumes that the Commission has decided that PacifiCorp must retain sufficient transmission capacity to serve a returning direct access customer. On the other hand, PacifiCorp does not assume that it will serve a retuning direct access load with power from its embedded-cost generation. PacifiCorp's rate schedules require PacifiCorp to serve returning direct access load with Mid-Columbia market purchases. PPL Schedules 220 and 230. The Commission in the future may determine that PacifiCorp must retain transmission capacity to be ready to serve returning direct access load. However, the Commission has not made that determination, and no evidence introduced in this proceeding provides a basis to support such a conclusion in this proceeding.

3. PacifiCorp is Incorrect About its Ability to Recoup its Costs

PacifiCorp's third reason, that PacifiCorp would not "recoup" its transmission costs because of "FERC rules," is incorrect and unsupported by any evidence. First, PacifiCorp is wrong as a matter of law that it cannot resell freed-up FPT capacity "for a price higher that [sic] its purchase price *per FERC rules*." Apperson Rebuttal, PPL 205 at 7 (emphasis added). Bonneville's tariff limits Point-to-Point transmission customers' rights to resell or assign Point-to-Point service. Attachment A. BPA's tariff does not apply to FPT service, and the FPT transmission contract, including any terms regarding sale of assignment of FPT capacity, are not subject to FERC jurisdiction. Even if Bonneville's tariff applies to sales and assignments of PacifiCorp's FPT service, the compensation cap is not PacifiCorp's price paid to Bonneville, but the higher of "(i) the original rate" paid by PacifiCorp; (ii) Bonneville's "maximum rate at the time of the assignment, or (iii) PacifiCorp's opportunity cost capped at Bonneville's cost of expansion." *Id.* Furthermore, PacifiCorp presents no evidence, beyond its assertion, that it would not recover its cost of FPT transmission service, or at least part of its cost.

4. PacifiCorp has Not Shown that it Will Not be Able to Find a Buyer

PacifiCorp's fourth reason, that a third party probably would not purchase transmission service to PacifiCorp's points of delivery every hour, is conjecture. PacifiCorp provides no evidence that it tested the market for resale or assignment of transmission service. Nor does PacifiCorp explain why it believes it must recover the "full price every hour" in order to provide a Transition Credit. PacifiCorp establishes an all-or-nothing argument: a Transition Credit is justified only if PacifiCorp is able to sell or assign freed-up FPT service "at full price for every hour." The Commission should reject this outcome.

PacifiCorp's position is arbitrary because PacifiCorp does not identify any legal or factual reason why partial recovery of the cost of freed-up FPT service should not result in a Transition Credit.

PacifiCorp's argument that the resale market for transmission service is "illiquid" is supported by a single, unnamed example. PPL Exhibit 205 at 7, lines 9-11. Based on PacifiCorp's evidence, the Commission knows nothing about this particular transmission customer or the transmission capacity that it attempted to sell or assign. The Commission certainly does not know whether this customer's transmission service is comparable to the transmission service PacifiCorp could sell or assign from the Mid-Columbia to its system. PacifiCorp also does not tell the Commission sufficient information about the claimed illiquid nature of the secondary transmission market to conclude that PacifiCorp will be unable to sell or assign freed-up FPT transmission service.

5. PacifiCorp Claims Transmission Capacity on Mid-Columbia to Portland Area is Scarce, but No One Would Buy its Capacity

The Commission should not allow PacifiCorp to have it both ways. PacifiCorp argues that transmission service on BPA's system is a scarce asset, unlike power which can be replaced at market prices. Therefore, PacifiCorp argues that it must hold and pay Bonneville for FPT transmission service just in case the customer returns. PacifiCorp implicitly argues that it will not be able to replace Bonneville transmission service as it replaces power. On the other hand, PacifiCorp wants the Commission to accept its position that there is neither a market for this transmission capacity, nor a PacifiCorp use for this same, scarce transmission capacity.

6. PacifiCorp's Full Utilization of Transmission Capacity Makes it Unnecessary to Sell FPT Capacity, But Requires a Transition Credit

The issue of whether direct access will free-up FPT transmission service that can be resold is obscured by PacifiCorp's statements that its transmission capacity will be "fully utilized" in the event of direct access. ICNU Exhibit at 121 at 1. Full utilization of transmission capacity is PacifiCorp's repeated description of how its transmission capacity will be used. If the Commission accepts PacifiCorp's evidence regarding full utilization, then it will be unnecessary for the Commission to determine whether FPT transmission capacity can be sold or assigned "for every hour at full price," or some of the time for less than full price.

The Commission must then decide that PacifiCorp's "fully utilized" transmission capacity associated with prior service to direct access customers is economic, in the sense intended by ORS 756.600(32), and that a Transition Credit is required to avoid an economic benefit shift to other customers.

F. PacifiCorp Will Use Freed-up FPT Transmission Service to Serve its Oregon System Load and Will Enable PacifiCorp to Avoid Purchases of Transmission Capacity, as well as Power

As PacifiCorp's Oregon loads grow, PacifiCorp will require transmission service to wheel power from PacifiCorp's generation to PacifiCorp's Oregon loads. PacifiCorp will be able to use transmission service freed up by direct access customers to serve other customers. PacifiCorp will be in a position in the near future when PacifiCorp will be able to avoid the purchase of additional transmission service for its Oregon loads. PacifiCorp acknowledges that it is in load resource balance only through 2006. Thereafter, PacifiCorp will be in the position of deciding whether to acquire additional power and additional transmission service to meet its growing loads. "Well, in terms of a longer run approach, . we haven't completely thought through what we would approach for the longer term approach . . . ." Cross-Examination of M. Widmer, Tr. At 92, lines 2-5. In the meantime, the value of freed-up FPT transmission service should be monetized for the benefit of load growth.

G. A Transition Credit is Justified Because FPT Service is a Benefit to PacifiCorp's Other Customers

PacifiCorp offers a reason why a Transition Credit for freed-up FPT transmission service is appropriate. PacifiCorp's FPT contract is more favorable for its customers than PTP service, which PacifiCorp claims can be assigned.

Q. For PacifiCorp, - - and we've looked at this - - periodically we look at this, currently the FPT contract is economically more favorable to PacifiCorp, than - - a equivalent PTP contract.

So, Therefore, we have chosen not to convert FPT over to PTP.

Q. Is the downside of the FPT is that it offers less flexibility in terms of wheeling and resale than PTP?

A. That is certainly correct. The PTP very explicitly provides for the opportunity to resell transmission that we would purchase under that contract, whereas FPT does not.

Q. So when you've testified that even if PacifiCorp could avoid this wheel, as a practical matter it couldn't resell transmission, is it because it's these FPT transmission rights as opposed to PTP transmission rights?

A. That is correct.

Cross-Examination of J. Apperson, Tr. at 77, lines 4-20. PacifiCorp's position is that it could convert its FPT service to PTP service, which can be assigned to another entity. PacifiCorp decided it will not convert its FPT transmission service to assignable PTP service because lower cost FPT service is a benefit to its other customers. Under this circumstance, the Commission should reflect that benefit, at least up to the economic benefit of freed-up FPT service, through a Transition Credit and by requiring PacifiCorp to enter into a buy-sell arrangement with and ESS.

H. Direct Access Allows PacifiCorp to Avoid Short Term Transmission Purchases

PacifiCorp purchases short term transmission service in addition to its FPT transmission contracts. In 2003 PacifiCorp purchased 817,129 MWh of transmission service to the Mid-Columbia, Palo Verde and the California Oregon Border. ICNU Exhibit 120 at page 10. PacifiCorp's short-term transmission purchases were the equivalent of 93 MW of transmission service. Loss of direct access load enables PacifiCorp to avoid or reduce short-term transmission purchases forecasted and included in PacifiCorp's revenue requirement when PacifiCorp set its retail power rates. If PacifiCorp is not required to provide a Transition Credit for short-term transmission purchases, then PacifiCorp will recover cost from ratepayers that direct access enables PacifiCorp to avoid. Direct access may not permit PacifiCorp to avoid entirely short-term transmission service purchases, but small reductions in PacifiCorp's load, resulting from direct access must have some impact on the amount of short-term firm transmission service purchased by PacifiCorp.

VII. EPCOR Did Not Take Inconsistent Positions Before the Commission and FERC

PacifiCorp filed a petition to amend its Open Access Transmission Tariff on January 16, 2004 (*PacifiCorp*, FERC Docket No. ER04-439-002). PacifiCorp sought, among other things, to calculate the cost to PacifiCorp of Energy Imbalance Service for direct access customers based on the average price of four market hubs: Mid-Columbia, California – Oregon border, Four Corners, and Palo Verde. PPL Exhibit No. 403. EPCOR argued in *PacifiCorp* that PacifiCorp should base its charge for Energy Imbalance Service on the index of prices at the Mid-Columbia hub. PacifiCorp's counsel in this proceeding attempted to have EPCOR's witness, Lorne Whittles, admit that EPCOR's position in this proceeding is inconsistent with EPCOR's position in the FERC docket.

The Commission should not be misled. First, EPCOR has not taken a position on the subject of whether power freed up by direct access should be deemed to be marketed at the four market hubs instead of just the Mid-Columbia hub as proposed by PacifiCorp. Mr. Whittles testified that EPCOR has not studied the four-market hub methodology proposed by ICNU.

PacifiCorp's purchase of power for Energy Imbalance Service at Mid-Columbia to serve PacifiCorp's Oregon system load is different than PacifiCorp's use of the same hub to sell freed-up power generated by resources available to PacifiCorp from its resources spread across the west. Energy Imbalance Service is required by short-term variations between the amount of power scheduled by a transmission customer, and the transmission customer's load. The amount of power freed up by direct access is known and continues for the duration of the customer's direct access commitment. Even in the case of PacifiCorp's kick-start program, the direct access term must be at least six months, but it may be for a term of up to thirty-six months, well beyond PacifiCorp's planning horizon. Even PacifiCorp states that it will be in load - resource balance in twenty-four months, and perhaps much earlier. When PacifiCorp is in load – resource balance, and with growing loads, PacifiCorp will need to acquire additional power and transmission service. At that point, whether it is in six months, or 24 months, freed-up FPT transmission capacity will enable PacifiCorp to avoid purchasing new OATT transmission service from Bonneville. The higher cost of Bonneville OATT service will be the measure of the economic value of the freed-up FPT service.

On July 28, 2004, FERC issued an Order in *PacifiCorp* accepting PacifiCorp's revisions to its OATT. Attachment B. The Commission noted that it had addressed the issue of the pricing methodology for Energy Imbalance Service in 2001. At that time, "the Commission found that the charges for Energy Imbalance Service are intended to represent 'the real cost of replacing the imbalances and is the lost opportunity cost of the market value of the energy that PacifiCorp could have sold, if that energy had not otherwise been utilized to cover an imbalance.'" *Slip Opinion* at 3.

VIII. EPCOR is Not Seeking a Transmission Subsidy for Direct Access Customers

EPCOR is not seeking a Transition Credit to offset EPCOR's costs in purchasing transmission service to PacifiCorp's Oregon system, as alleged by PacifiCorp. ("Q. is the purpose of that credit functionally - - in the direct access equation - - to cover the ESS's cost for bringing power from the Mid-C to the Pac border? A. Essentially, that's correct." Redirect of Omohundro, Tr. at 31, line 23, through32, line 1.) EPCOR understands that the purpose of Transition Credits is to recognize that benefits of economic utility investment are returned to all customers as a result of direct access, and the direct access customer should receive Transition Credits for such benefits. ORS 756.600(32). Although the Commission has authority to provide a subsidy to direct access customers to encourage development of a wholesale power market, EPCOR does not ask the Commission to create a transmission subsidy for direct access customers in this proceeding.

IX. Conclusion

The Commission should deny PacifiCorp's request to treat its two FPT transmission service agreements as having no economic benefit to PacifiCorp's customers. PacifiCorp admits that it fully utilizes its transmission system to buy and sell power. Furthermore, PacifiCorp asks the Commission to approve charging a balancing account for purchasing transmission service so it can sell freed-up power to the Mid-Columbia. The Commission should find that freed-up FPT transmission service, both the FPT agreement for delivery from the Mid-Columbia to the Portland area, and the FPT agreement for delivery from the Portland area, will be used by PacifiCorp. The Commission should order PacifiCorp to provide a Transition Credit at the FPT transmission rate in an amount of direct access load.

The Commission also should direct PacifiCorp to enter into buy-sell arrangements with ESSs at cost of power sold to PacifiCorp and the cost of FPT service. This arrangement will encourage direct access service, preserve FPT capacity for direct access customers

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in the event they return to PacifiCorp service, and completely avoid cost shifts to other customers or investors.

DATED this 3rd day of August, 2004.

Respectfully submitted,

PRESTON GATES & ELLIS LLP

By

Harvard P. Spigal
Of Counsel for EPCOR Merchant
and Capital (US) Inc.

CERTIFICATE OF SERVICE AND FILING

I hereby certify that on the date indicated below, I caused to be filed by fax, followed by U.S. pre-paid mail, the above-entitled **OPENING BRIEF** with the:

Public Utilities Commission of Oregon

On the same date, I served a true, complete and correct copy of the above-mentioned document by fax, followed by U.S. pre-paid mail, on the following parties:

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1081

In the Matter the PUBLIC UTILITY COMMISSION OF OREGON STAFF'S Investigation Into Direct Access Issues for Industrial and Commercial Customers under SB 1149.	))))))))))

TRANSCRIPT OF PROCEEDINGS:

CROSS-EXAMINATION HEARING
JULY 14 2004, 9:30 A.M.

BEFORE ADMINISTRATIVE LAW JUDGE TRACI KIRKPATRICK

OPUC Main Hearing Room
Salem, Oregon

Kelly Lee Polvi
Court Reporter and Transcriber
1584 Doaks Ferry Rd., NW
Salem, Oregon
(503) 363-9552

If there are small amounts of load that leave, it's not economic to make a sale, for example, something under 25 megawatts. So we want to retain the ability not to have to make the sale.

But if a large load leaves, or if there's a large market -- well, if a large load leaves, we will need to make a sale.

Q And if you make a sale, you reference in the next sentence that there would be incremental costs that would go into a balancing account?

A Right.

Q And what are those incremental costs?

A The difference between the forward price curve that was used to set the transmission charge, and the actual transacted price at Mid-C.

Q And are there transmission costs that would also be incurred?

A If there are incremental transmission costs, we would also include those in the balancing account.

Our proposal is not to include those increment -- any incremental transmission costs initially in the transition credit because we think that there's a reasonable chance that those could be avoided.

But in the case -- and in the situation, for example if a large load would leave and we were to incur distribution losses.

Q So the line between -- that exists on this diagram between PacifiCorp generation and customer, that charge becomes a credit --

A Yes.

Q -- to the customers in our -- in the current transition charge.

A Right.

Q So the current transition charge has the two arrows from Pac generation to Pac border, and Pac border to Mid-Columbia are charges?

A Yes.

Q And the arrow between Pac generation and customer is a credit?

A That's correct.

Q Okay. So what, in the Company's Direct Testimony, how did the Company change that equation?

A In our Direct Testimony we did two things, we eliminated the requirement that a sale be made at Mid-C, and eliminated the charge for the BPA wheel from PacifiCorp border to Mid-C.

Q In the PacifiCorp rebuttal case, what change did the Company make?

A We further eliminated the PacifiCorp FERC wheel along the horizontal axis at the bottom, so the transition charge is -- or the credit is simply the difference between Mid-Columbia and PacifiCorp generation with a credit for distribution losses.

Q So the charges that were associated with those two lines from the Pac generation to Mid-C, those charges are gone?

A That's correct.

Q The credit between Pac generation and the customer remains.

A Yes.

Q Using this diagram to explain one further issue, the -- you refer in your testimony to a market-plus proposal of ICNU and EPCOR. Can you explain how -- where that charge is on this diagram?

A It basically is the charge that the ESS's must incur to get power from Mid-C to our system. And it's labeled the BPA wheel.

Q So when you refer to market plus, it's really the Mid-C forward price, plus this BPA wheel.

A That's correct. And it assumes that PacifiCorp can free up transmission as a result of avoided purchases and resell it. And we can't do that.

Q Is the purpose of that credit functionally to -- in the direct-access equation -- to cover the ESS's cost for bringing power from Mid-C to the Pac border?

A Essentially, that's correct.

Q That's all I have. Thank you.

MR. SPIGAL: I know I didn't ask -- this is Harvard Spigal -- I know I didn't ask to cross-examine Ms. Omhundro -- "Omohundro," sorry. But this exhibit wasn't available earlier, and I wondered if Ms. McDowell will let me ask some questions.

ALJ KIRKPATRICK: Ms. McDowell.

MS. MC DOWELL: I would not object to a short series of questions.

MR. SPIGAL: Thank you.

CROSS-EXAMINATION

BY MR. SPIGAL:

Q So basically, as I understand it, everything that's on the northern third, the top third of this diagram, is what the cost the ESS will incur in delivering power to the customer from the Mid-Columbia to the BPA wheel to the Pac border, and from the Pac border to the customer.

A That's true. I might note that the two small lines between Pac border and customer at the top and Pac generation and customer essentially offset each other.

Q Okay. What I'm not understanding is the bottom line and the line from the Pac border to the Mid-Columbia. And in your testimony you indicate that you can't resell day-ahead, and real-time markets.

Q Well, you referenced month-ahead, quarterly, and year-ahead earlier. Isn't it true that all of those markets would be available for balancing the direct-access load once you get the election in November?

A Absolutely. Those markets are all available to us at different times. At the time we find out about the load that leaves for direct access, and markets that we have available to us to balance are the forward markets, and we would typically and generally respond at that time to balance.

That's consistent with our strategy to mitigate price risk.

So we would not leave that open position, if you will; that surplus created by the customers leaving, we wouldn't leave that to the daily market or the real-time market, because our experience has been that those markets have greater price volatility and therefore we'd have a greater risk of the market moving against us.

And so we choose to balance in the forward market.

Q Now you stated that when you get the direct-access election that you would likely make a sale to balance your system?

A We would like- -- yes, we would likely make a sale, depending on the size of the direct-access load. The customers that left for direct access.

If -- for instance, if the load was relatively small, one or two megawatts, we would not. And that is because there are standard-size products in the market that are traded. Typically 25 megawatts is the smallest. And so if we became one or two megawatts more surplus, we wouldn't make a 25-megawatt sale, that wouldn't make sense, because that would increase our exposure.

But if there was, say, 50 megawatts of direct-access load, then we would likely make a sale to bring our system back into balance in those forward time periods.

Q So if there was 50 megawatts of direct-access load, is it your testimony that the most economical way to balance your system would be to make a 50-megawatt sale at the Mid-Columbia?

A In a general sense, yes, that the most economical place to make that sale would be the Mid-Columbia.

And the reason for that is that in this general, theoretical discussion of what happens when a load leaves, we would generally or theoretically have already not only balanced the PacifiCorp system, but also utilized the transmission systems, the firm transmission rights of PacifiCorp, to, as a I mentioned earlier, buy at the least expensive markets and sell at the most expensive markets.

So what would be left, most likely, would be for us to sell at the Mid-Columbia.

Q Do you have Mr. Galbraith's testimony?

A I do.

Q And if you could turn to his chart, Exhibit 102. Staff Exhibit 102.

A Let's see, I don't believe I -- I have Exhibit 100.

MS. MC DOWELL: One oh two is the exhibit to Mr. Galbraith's testimony.

THE WITNESS: I don't believe I have that.

MS. MC DOWELL: I'll get you my copy.

Q (BY MR. VAN CLEVE.) Mr. Galbraith has an example on here of a 50-megawatt direct-access load and he's summarized the results of the GRID run. And the way I read it, it's saying that the most economical way to balance your system is to make a variety of adjustments, including sales in the desert southwest and avoided purchases and changes in generation levels.

So doesn't that show that that would be the most economical response and not a sale at the Mid-C?

A The -- not necessarily, because we're talking two different snapshots in time here.

In my testimony I talk about -- just answers I talk about making sales at Mid-Columbia is the most economic thing to do at that snapshot in time in November when we concept that you're getting at here.

I think your -- the exhibit that you've introduced, 401, shows that these other trading hubs are higher value; is that right? Than Mid-C?

A Correct.

Q And why is it that none of that higher value should be part of the economic utility investment that's being passed through to customers in the transition adjustment?

A I believe it is, through the cost-of-service rate.

But I would address the specifics to that to either Christy Omohundro or Mark Widmer.

But the thinking behind this statement is -- what I explained before, is that ideally and theoretically at the time we find out the customers are leaving in November, we would have already balanced the system and utilized transmission to make purchases at the less expensive markets, and make sales at the more expensive markets.

So that would be left would be to make the sales at the Mid-Columbia.

Q But that's not what the GRID run says you will do. It says that you're going to increase sales at other market hubs.

A Again, the GRID run is -- takes a look at a variety of things beyond what this interim methodology looks

-- between where we serve Bonneville's -- some loads in southern Idaho, and they return power to us in the West Main system.

Q Can you deliver power from Coal Strip to your West Main system over Bonneville?

A Yes, that's part of these contracts that we mentioned; that we have a load from contracts.

Q And are those all at the FPT rate?

A Yes, they are.

Q And those contracts are non-assignable?

A That is correct.

Q So you don't -- do you have any contracts with Bonneville under their open-access tariff that can be assigned?

A Yes. As I mentioned, we do have some more recent contracts that are very small. I think there's one from Hood River into our system. But in the context of this they're insignificant.

Q Can you do a purchase and resale using the FPT contracts?

A No, we cannot. That is to say -- if I understand your question, do you mean to resell the transmission?

Q No, to buy power, wheel it over the transmission, and then resell it to someone else, the power.

A Yes.

at that time.

Q In general is the Company's FPT, are there FPT contracts more favorable than PTP contracts would be?

A For PacifiCorp -- and we've re-looked at this -- periodically we re-look at this, currently the FPT contract is more economically favorable to PacifiCorp, than -- than a equivalent PTP contract.

So therefore we have chosen not to convert FPT over to PTP.

Q Is the downside of the FPT is that it offers less flexability in terms of wheeling and resale than PTP?

A That is certainly correct. The PTP very explicitly provides for the opportunity to resell transmission that we would purchase under that contract, whereas the FPT does not.

Q So when you've testified that even if PacifiCorp could avoid this wheel, as a practical matter it couldn't resell the transmission, is it because it's these FPT transmission rights as opposed to PTP transmission rights?

A That is correct.

Q Is that unique to PacifiCorp as opposed to, for example, PGE?

A Yes. My understanding is PacifiCorp is either the only or one of the only Bonneville customers that has FPT contracts. Certainly I know that PGE has point-to-point or

GRID-based approach to setting the transition adjustment?

A Well, in terms of a longer-run approach, as Ms. Omohundro mentioned earlier today, we haven't completely thought through what we would propose for a longer-term approach; we want to sit down with the parties and have some give and take in terms of what they think might work and might not work.

So I'm just referring to the fact that we haven't developed a long-run approach at this point in time.

Q Why don't you just tell us what GRID, what it does. What is it?

A GRID is an hourly production-dispatch model that simulates the operation of the Company system over a variety of hydro conditions given the transmission constraints, fuel prices, market prices, et cetera, at the Company system.

The model has three components, it's got a pre-dispatch, a dispatch, and a output component.

In the pre-dispatch component of the model the model calculates thermal availability and thermal commitment, it dispatches and shapes hydro generation. It dispatches firm wholesale sales and purchase contracts, and also calculates operating reserve requirements.

In the dispatch process the model dispatch -- which is a linear program, excuse me -- dispatches thermal generation and balances and optimizes the system given the

Q Mr. Whittles, you testified a moment ago that you are familiar with arrangements in other jurisdictions for the sale of power to retail consumers by energy service suppliers or by whatever name they go by.

And in other jurisdictions how is the matter of transmission service that is no longer needed because of an ESS sale to a retail customer handled?

A I'm not certain on that point; I would be speculating.

Q Okay.

A I would add, however, that as the transition calculation is currently structured, it reflects no stranded benefit to those customers who depart the system freeing up transmission capacity.

Q By stranded benefit, how would stranded benefit be determined?

A The difference between market and the cost of that resource, A; or B, the remarketing or redeployment of that resource that is now freed up.

Q So can you give an example of how each would be determined would respect to transmission?

A With respect to transmission, if there is a freeing up of the resource that's existing, then that resource would be available to the remaining ratepayers to be their offering for load-growth, firstly. Secondly, the

PacifiCorp Transition Adjustment
Mid-C Transmission Diagram

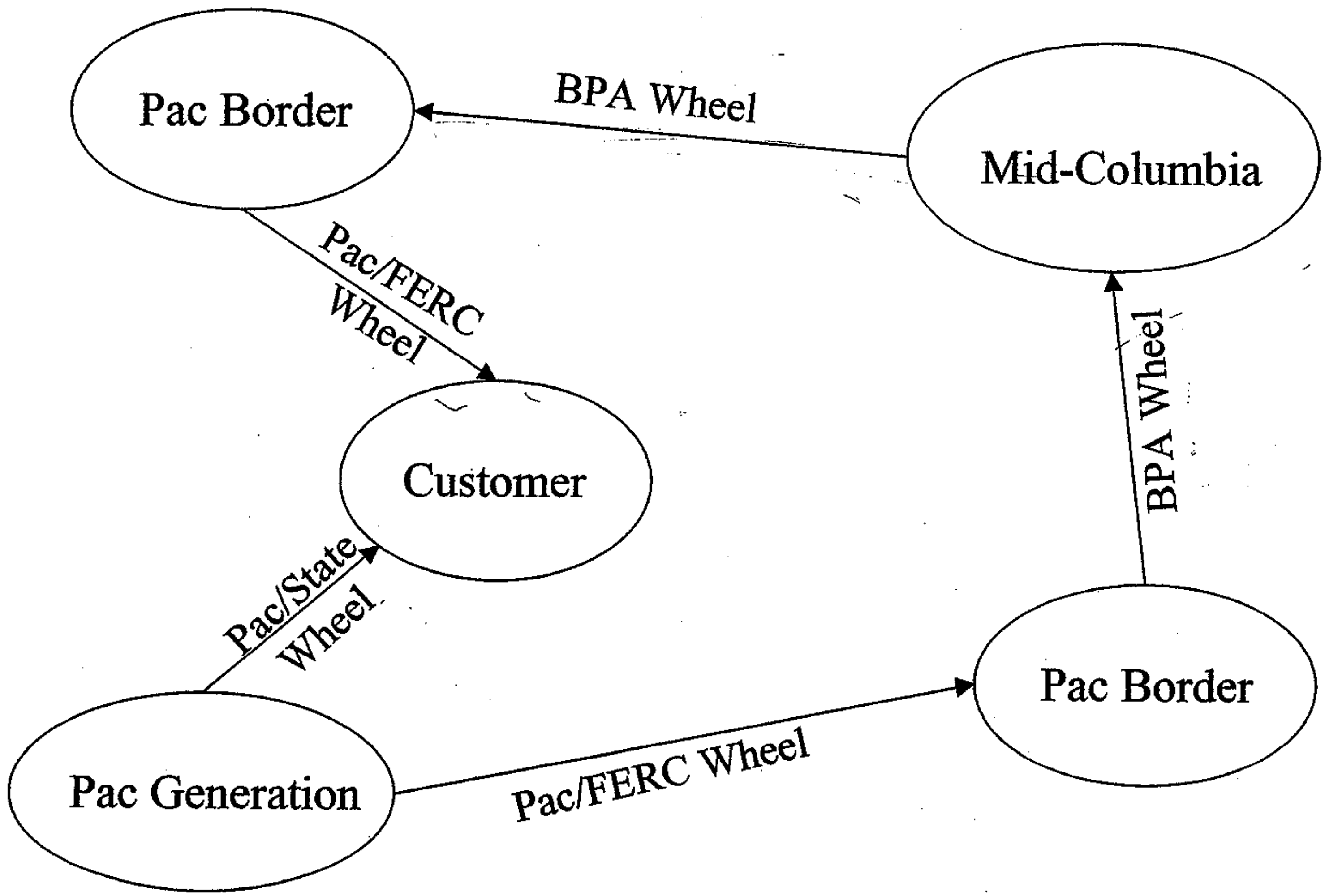

EXHIBIT 400

Page ____ of ____

Case UE –1081
PPL Exhibit 101
Witness: Christy A. Omohundro

BEFORE THE PUBLIC UTILITY COMMISSION

OF THE STATE OF OREGON

PACIFICORP

Rebuttal Testimony of Christy A. Omohundro

Policy

June 2004

treatment of various transmission costs and credits.

Mr. Mark Widmer's Rebuttal Testimony addresses the use of the GRID model in setting the Transition Adjustment. He explains how the results of the GRID model provide support for PacifiCorp's current Transition Adjustment method and for the methods that the Company and Staff have proposed in this case. In addition, both Mr. Apperson and Mr. Widmer address the contention of ICNU and EPCOR that the Transition Adjustment should be based on the average of projected prices at four market trading points.

Background on PacifiCorp's Modified Transition Adjustment Proposal

Q. Please compare and contrast the parties' views of the purpose of the Transition Adjustment.

A. PacifiCorp and Staff appear to be in agreement that the purpose of the Transition Adjustment is to measure the impact of direct access on the utility and neutralize cost shifts between customers who go to market and those that remain on cost of service. In contrast, ICNU and EPCOR imply that the purpose of the Transition Adjustment is to make direct access economic by providing some measure of headroom between cost of service rates and market alternatives, leading to their "market plus" proposal for calculating the Transition Adjustment. The tension between these theoretical positions is clear — one seeks to prevent cost-shifting and the other appears difficult to sustain without it.

PacifiCorp's Interim Transition Adjustment Methodology

Q. Please explain PacifiCorp's proposed approach for calculating the Transition Adjustment on an interim basis.

A. In the place of the proposal presented in my Direct Testimony (elimination of required sale and elimination of BPA Wheel and Losses, except if actually incurred), PacifiCorp now proposes the following:

PacifiCorp proposes to use a Transition Adjustment methodology for the November 2004 shopping window that basically distills to the difference between the forward ~~price~~ at Mid-Columbia and the Company's cost of service, without charges or credits for delivering power to PacifiCorp's system from the power source or delivering the power to Mid-Columbia for a sale. PacifiCorp agrees to remove the FERC Regulated Transmission Wheel and Losses incurred to deliver power to Mid-Columbia for a sale, as well as the BPA Wheel and Losses.

On the other side of the equation – charges or credits for bringing power to PacifiCorp's system from the power source are also removed. Because the Company's cost-of-service rate includes state-regulated Ancillary Services and Wheeling and Distribution Losses, these costs need to be credited in the calculation to effectuate a model that removes all transmission costs to and from the system on the premise that they are offsetting and any new direct access load supplier will be required to pay for these services separately. This is not a new idea; PacifiCorp's current model and initial proposal in this case included credits for both Ancillary Services and Wheeling and Distribution Losses. PacifiCorp has since realized, however, that its unbundled delivery tariffs for direct access

Transition Adjustment. A large industrial customer on Schedule 48, however, would receive an additional 2 mill credit.

Q. **How does PacifiCorp propose to address the difference between the transacted and Forward Price Curve value of the freed-up power if a Mid-Columbia sale becomes necessary?**

A. The Company agrees that it will make a sale of freed-up power only if the market moves significantly or a large shift of load to direct access occurs during the open enrollment window. If the Company should make a sale in this instance the difference between the transacted and Forward Price Curve value of the freed-up power and any incremental costs associated with the sale will be placed in a balancing account.

Q. **How does PacifiCorp proposed to recover the amount in the balancing account?**

A. The Company has previously proposed that the amounts in the balancing account be recovered or credited in the Transition Adjustment for the subsequent period. However, customers, customer groups and ESSs have suggested that this may be a barrier to competition. The Company now proposes to recover these costs through Schedule 293 from all customers eligible for Direct Access.

Q. **Does this conclude your rebuttal testimony?**

A. Yes.

UM-1081/PacifiCorp
July 7, 2004
ICNU 7th Set Data Request 7.1

ICNU 7th Set Data Request 7.1

Please describe and provide all information regarding PacifiCorp's transmission rights to and from each of the four hubs (Mid-Columbia, Four Corners, Palo Verde and the California Oregon Border).

Response to ICNU 7th Set Data Request 7.1

PacifiCorp C&T transmission rights to and from the four market hubs are the result of long-term (one year or greater) firm contracts and short-term contracts (less than one year).

PacifiCorp long-term firm transmission contracts are:

Transmission Provider	Point of Receipt	Point of Delivery	Capacity MW	Description
BPA	Vantage (Mid-C)	Troutdale	269	From Mid-C to Portland area
BPA	Troutdale	Vantage (Mid-C)	269	From Portland area to Mid-C
Grant Co. PUD	Wanapum (Mid-C)	Wanapum	449	From Mid-C to Yakima area
BPA	Midway (Mid C)	Midway	150	From Mid-C to Yakima area
BPA	Midway (Mid C)	Outlook	85	From Mid-C to Yakima area
PPW	PacifiCorp West	COB	525	From PacifiCorp West to COB
PPW	COB	PacifiCorp West	402	From COB to PacifiCorp West
PPW	PacifiCorp East	Four Corners	530	From PacifiCorp East to Four Corners
PPW	Four Corners	PacifiCorp East	565	From Four Corners to PacifiCorp East
TSGT	Craig	Four Corners	33.5/50	On Peak/Off Peak From Craig to 4C
PSCO	Craig	Four Corners	33.5/50	On Peak/Off Peak From Craig to 4C
APS	Cholla	Four Corners	380	From Cholla to Four Corners
APS	Cholla	Palo Verde	350	From Cholla to Palo Verde

Notes:

- Mid-C is Mid-Columbia.
- COB is California Oregon Border.
- PPW is PacifiCorp Transmission.
- PacifiCorp West is inclusive of PacifiCorp's Oregon, Washington, and California customers.
- PacifiCorp East is inclusive of PacifiCorp's Idaho, Wyoming, and Utah customers.

UM-1081/PacifiCorp
July 7, 2004
ICNU 7th Set Data Request 7.1

PacifiCorp short-term transmission contracts vary hour to hour depending on transmission purchases made in the short term market. PacifiCorp currently does not have any non-firm transmission rights for calendar 2006.

UM-1081/PacifiCorp
July 7, 2004
ICNU 7th Set Data Request 7.3

ICNU 7th Set Data Request 7.3

Please provide all information that supports the statement in PacifiCorp's response to ICNU data request number 4.5 that "[t]he Company's firm transmission rights would have been fully optimized without the surplus . . . ."

Response to ICNU 7th Set Data Request 7.3

PacifiCorp C&T transacts in the forward market based on the assumption that for each time period all surplus is moved to the highest price market hub up to the transmission limitations and then move surplus to the next highest market hub(s) until all surplus has been moved from the system to liquid market hubs. In any time periods where there is a shortage, that shortage is moved to the lowest price market hub up to the transmission limitation and then move the shortage to the next lowest market hub(s) until all shortage has been moved from the system to liquid market hubs. The June 24, 2004 Trading and Balancing Strategy Summary, included as confidential Attachment ICNU 4.6, states "Purchase or sell forward to reach flat HLH [a.k.a., on-peak] and LLH [a.k.a. off-peak] fixed-priced exposure positions in the east and west systems for each month through a rolling 24-month period…". In addition to the strategy to flatten positions PacifiCorp C&T strategy includes "May close transmission positions". This strategy statement allows optimization of residual transmission capacity, if any, between market hubs after the system position has been flattened. As each time period rolls into finer trading time period granularity, the logic is applied to utilize the transmission capacity for that time period. Given the constant updating of the loads and resources making up PacifiCorp C&T's position (load variations, generation outages and restrictions, and transmission outages and restrictions), there are certainly some deviations that will cause some time periods to not be flattened. There are also market liquidity and value issues for forward time periods that will cause a position at any given market hub to not be flat. But, in general, the PacifiCorp C&T strategy is to reach a flat forward position for all time periods based upon utilized transmission capacity. This strategy is a general statement to directionally trade towards a flat position and is not a mandate to obtain and maintain perfectly flat positions for all time periods.

ICNU 5th Set Data Request 5.2

Please provide all documents that refer or relate to or otherwise analyze the impact of PacifiCorp's Transition Adjustment on participation in direct access.

Response to ICNU 5th Set Data Request 5.2

PacifiCorp objects to this question to the extent it calls for documents prepared in connection with this proceeding covered by the attorney/client or work product privileges. Without waiving this objection, PacifiCorp has attached responsive documents as Attachment ICNU 5.2 on the enclosed CD.

Case UE –1081
PPL Exhibit 205
Witness: John A. Apperson

BEFORE THE PUBLIC UTILITY COMMISSION

OF THE STATE OF OREGON

PACIFICORP

Rebuttal Testimony of John A. Apperson

Transition Adjustment

June 2004

Q. Please comment on ICNU's assertion that "using the average of four market hubs... represents the value of power on their full system."

A. ICNU attributes this assertion to unnamed "PacifiCorp staff," and it is clear that this unattributed remark has been taken out of context. PacifiCorp has used the average of market curves from its four market hubs to financially settle and calculate unexpected hour to hour imbalance charges since 2001. When PacifiCorp made this change to its Federal Energy Regulatory Commission (FERC) transmission tariff, no party opposed it and I am informed that PacifiCorp's transmission function believes it is the best method of calculating the a financial settlement associated with unexpected hour to hour imbalance charges throughout the system. However, direct access load does not constitute an unexpected imbalance and should not be considered as such due to the very different nature of the two concepts. In addition, when an **Oregon** customer elects to become a Direct Access customer, PacifiCorp, if it elects to make a sale, will most likely make a sale at Mid-Columbia in order to re-balance the incremental change.

Q. ICNU's proposal assumes that the Company would avoid transmission expense by avoiding market purchases and imputes a credit in its Transition Methodology for avoided transmission. Is this a valid approach?

A. No. The Company's third-party wheeling to and from Mid-Columbia is purchased through long-term contracts and is not avoidable. Given the questionable availability of transmission capacity, the company needs to own capacity rights in both directions to accommodate the customer's option to leave and the fact that the Company must accept ~~a return of the~~ load obligation in the event their third party supplier defaults or if the load returns under other circumstances. An attempt to resell third party transmission capacity on a short-term basis would probably not recoup the initial purchase expense because the transmission capacity can not be sold for a price higher that its purchase price per FERC rules. In addition the probability is low that a third party would purchase a Mid C wheel to a specific company interconnection at full price for every hour. In addition, the market for resale of transmission capacity is very illiquid and there currently exists at least one BPA transmission customer who resells capacity at a discount which would ensure that the company would not recoup its purchase price. Finally, the re-sale of PacifiCorp's BPA long-term wheeling rights is specifically prohibited ~~by~~. Therefore the company is extremely skeptical that it could capture the full value of the rights in a sub-lease type resale. Thus, even if an avoided purchase assumption were valid, PacifiCorp does not believe that there is any reasonable basis for imputation of a credit for avoided transmission.

Q. Does EPCOR's testimony on these issues track ICNU's?

A. Yes. In direct response to EPCOR's testimony, PacifiCorp would reiterate the points raised above.

Q. Does this conclude your testimony?

A. Yes.

2003 Transmission Trades
By Month
Various POR to Mid-C/4C/PV/COB

Month	Provider	POR	POD	Trade #	HLH MWH	LLH MWH	Total MWH
2003/12	APS	W.Wing	4C	178617	9,152	7,216	16,368
2003/12	APS	4C 345	PV	179543	0	350	350
2003/12	AVWP	HSprings	Mid-C	178310	0	704	704
2003/12	AVWP	HSprings	Mid-C	178938	0	528	528
2003/12	AVWP	HSprings	Mid-C	179540	0	234	234
2003/12	AVWP	HSprings	Mid-C	179700	0	200	200
2003/12	AVWP	HSprings	Mid-C	179873	0	528	528
2003/12	AVWP	HSprings	Mid-C	180036	0	276	276
2003/12	AVWP	HSprings	Mid-C	180037	0	368	368
2003/12	AVWP	HSprings	Mid-C	180048	0	1,056	1,056
2003/12	AVWP	HSprings	Mid-C	180240	0	65	65
2003/12	AVWP	HSprings	Mid-C	180534	0	300	300
2003/12	AVWP	HSprings	Mid-C	180552	0	352	352
2003/12	AVWP	HSprings	Mid-C	180705	0	440	440
2003/12	AVWP	HSprings	Mid-C	180874	0	440	440
2003/12	AVWP	HSprings	Mid-C	181060	0	880	880
2003/12	AVWP	HSprings	Mid-C	181215	0	528	528
2003/12	AVWP	HSprings	Mid-C	181514	0	1,584	1,584
2003/12	AVWP	HSprings	Mid-C	181723	0	1,848	1,848
2003/12	AVWP	HSprings	Mid-C	182285	0	1,144	1,144
2003/12	AVWP	HSprings	Mid-C	182291	50	0	50
2003/12	BPA	BPANW	COB	181989	0	300	300
2003/12	BPA	BPANW	COB	181991	400	0	400
2003/12	BPA	BPANW	COB	181994	768	0	768
2003/12	BPA	BPANW	COB	181995	768	0	768
2003/12	BPA	BPANW	COB	182294	1,040	0	1,040
2003/12	BPA	PACW	COB	181990	640	0	640
2003/12	PACWTR	Utah	4C	184434	220,480	173,840	394,320
2003/12	PACWTR	PACW	COB	184433	218,400	172,200	390,600
2003/12	SCL	BPA	Mid-C	183190	50	0	50
2003/12	Total				451,748	365,381	817,129