

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1355**

In the Matter of	)	
	)	
THE PUBLIC UTILITY COMMISSION	)	OPENING BRIEF OF THE
OF OREGON Investigation into	)	CITIZENS' UTILITY BOARD OF
Forecasting Forced Outage Rates for	)	OREGON
Electric Generating Units.	)	
	)	
	)	
_____	)	

COMES NOW the Citizens' Utility Board of Oregon (CUB) and files its Opening Brief in the above entitled matter.

**INTRODUCTION**

This docket was opened by the Commission on November 2, 2007. To date the docket has had three phases.<sup>1</sup> In Phase I the parties participated in three workshops, filed opening and reply testimony, and participated in a technical workshop with the Commissioners and the Administrative Law Judge (ALJ). PGE and Idaho Power then reached full settlements with Intervenors and Staff, and PacifiCorp reached a partial settlement with Intervenors and Staff. The Citizens' Utility Board of Oregon (CUB), Staff, the Industrial Customers of Northwest Utilities (ICNU) and PacifiCorp filed two additional rounds of testimony related to the unsettled issues from PacifiCorp's partial settlement, and then filed opening and closing briefs on those issues. Finally, on October 7, 2009, the Commission issued notice to the parties of its intention to adopt the

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<sup>1</sup> Staff/400 Brown/2 and 3.

stipulations subject to certain modifications. In its notice, the Commission set forth its proposed modifications. Those modifications addressed the issue of extraordinary forced outages and the calculation of rates for coal fired thermal generating facilities.

In Phase II of this docket the Commission clarified its view of the modification in Order No. 09-479: “The methodology for calculating the forced outage rate shall be as set forth in Staff/200, Brown/8-15, except that, instead of adjusting the FOR to the 10th and 90th percentile values for the calendar year, the mean annual FOR from the unit’s entire historical data shall be substituted.” Thereafter, in Order No. 10-157, the Commission granted PGE and Idaho Power permission to file additional testimony in regard to certain issues they had with both the Commission’s modification and ICNU’s FOR proposal.

Phase III, the most recent phase, saw the filing of the above described testimony by PGE, Idaho Power, ICNU and Staff and the holding of an additional workshop with the Commission. CUB chose not to participate in that final round of testimony because CUB felt obligated to support the positions it had taken in entering into the earlier Stipulations with the other parties – notwithstanding the parties own decisions to withdraw from those Stipulations.<sup>2</sup> Subsequently CUB, Staff and Idaho Power have entered into a Second Stipulation. And today, as the second briefing phase, Phase IV, commences CUB feels compelled to advise the Commission that CUB will happily support either a) an order upholding the Stipulations into which CUB has entered with the other parties or, b) the Commission’s modified formula as proposed in Order No. 09-479.

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<sup>2</sup> Portland General Electric Company’s Response to Notice of Intent to Modify Stipulations and Establish Rate Calculation at page 2; PacifiCorp’s Rejection of Proposed Addition to Partial Stipulation and Request for Additional Proceedings at 4 lines 3-4; Idaho Power’s Request for Approval of Stipulation or Additional Proceedings at 1 lines 13-18.

This is because CUB believes the results from either formula will produce rates that are “just and reasonable”.

## **ARGUMENT**

### **I. The full Stipulations entered into with PGE and Idaho Power adequately resolved the issues raised in this docket.**

In crafting the Stipulation entered into by CUB, Staff, ICNU and PGE, and CUB, Staff and Idaho Power, CUB worked hard to ensure that each Stipulation resolved all issues and was the best indicator that it could be – the most accurately predictive<sup>3</sup> – methodology of forced outage rates that it could craft for use by the Commission. Each Stipulation was crafted to fit the specific characteristics of each Company. This was because CUB felt that a one size fits all approach was not necessarily the best approach given the circumstances. Indeed CUB continues to believe that a one size fits all is not the best approach particularly for Idaho Power and this is why CUB has recently entered into a second Stipulation with Idaho Power. CUB believes that the Stipulations entered into will result in fair, just and reasonable rates.

### **II. The Partial Stipulation entered into with PacifiCorp adequately resolved all issues except the issues related to the heat rate curve and the benchmarks for forced outage rates.**

As above, CUB believes that the partial Stipulation that it and other Intervenors entered into with PacifiCorp was the best resolution of the issues covered in that Stipulation. The Stipulation left only two issues outstanding the heat rate curve and benchmarking for the forced outage rate. The PacifiCorp situation is, however, a little different in that the parties had failed to agree upon the most “accurately predictive” methodology for PacifiCorp and the calculation of forced outage rates and thus the

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<sup>3</sup> Notice of Intent to Modify Stipulations and Establish Rate Calculation at 3, Discussion, 1. Revisions to the Stipulations.

imposition by the Commission of its methodology for forced outage rates upon PacifiCorp merely resulted in the Commission filling in the gap left by the parties. And, given that the Commission was working with PacifiCorp data in crafting its modified formula the fit between the Commission formula and the Company circumstances is the tightest. As noted in the ICNU/CUB letter to the ALJ dated January 19, 2010, CUB did not believe that PacifiCorp deserved additional bites at the apple and urged the Commission to simply adopt the Commission's modified formula in regard to PacifiCorp.

### **III. The Commission's modified formula is satisfactory for both PGE and PacifiCorp.**

The Stipulations entered into by Staff, the Intervenors and the Companies excluded outliers from the limited time periods covered by those formulas. On the other hand the Commission's modified formula includes outliers – how can both be correct? The answer is simple. One excludes outliers from the limited time period calculation and the other washes out the effect of the outliers by including the full life time of the plant.<sup>4</sup> However, in CUB's estimate the ultimate result is similar – outliers have little effect on the formula no matter which formula is applied – this is appropriate.

As noted above, in PacifiCorp's case, no forced outage rate formula was agreed to in the Stipulation – thus it is appropriate for the Commission to insert its own formula. In PGE's case CUB finds that PGE's arguments against the Commission formula are not persuasive that the Commission's formula is less accurately predictive than the formula in the Stipulation entered into between CUB, Staff and ICNU. CUB, therefore, finds that it can support equally well the imposition of the Commission formula or the Commission's acceptance of the Stipulation entered into by the parties.

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<sup>4</sup> Testimony of Kelcey Brown at hearing August 23, 2010; Order No. 09-479 at 3, III. Points of Clarification of Commission Notice paragraph 3.

**IV. The Commission's modified formula is not satisfactory in regard to Idaho Power; the second Stipulation entered into by Idaho Power, Staff and CUB is better suited to Idaho Power than is the Commission's modified formula.**

The Commission's modified formula does not take into account the fact that due to physical and operational changes to Idaho Power's generating fleet lengthy historical averages may not necessarily be the most accurately predictive of future outage rates.<sup>5</sup> As testified to by John Carstensen on July 16, 2010, Idaho Power is the co-owner of three different coal-fired plants. However, Idaho Power is not the operator of those plants even though it does participate in operational decision making and is not provided with all of the operational data.<sup>6</sup> The formula used by Idaho Power utilizes the most recent generation information to forecast the EFOR for the next planning period.<sup>7</sup> As noted by Mr. Carstensen:

[D]ata from 20 years ago is not necessarily predictive of next year's outage rate because the data from 1990 may have been collected in a different manner (*e.g.* the plant operator may have characterized outages differently), the plant was likely governed by a different operating philosophy (*e.g.* the operator may have worked to minimize scheduled maintenance outages which increases forced outages), and the maintenance procedures 20 years ago were different than those used today. The Company has no way to verify that the data from 20 or 30 years ago is reliable and substantially the same data that would have been collected using today's maintenance and operational standards.

Idaho Power's method, on the other hand, utilizes much more recent historical data to forecast future outage rates. This recent data is reliable because it was collected under substantially the same operational and maintenance practices as the forecasting period.

Thus, the CUB, Staff, Idaho Power Stipulation (both the first and the second Stipulations) take(s) into account these phenomena producing, in Idaho Power's case, a

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<sup>5</sup> Idaho Power's Motion for Additional Testimony at 4, lines 11-13.

<sup>6</sup> Idaho Power/100 Carstensen/2 lines 25 through 32.

<sup>7</sup> Idaho Power/100 Carstensen/3 lines 14 through 17.

more accurately predictive rate. Idaho Power's Stipulation is the better process for the utility.<sup>8</sup>

**V. Staff's final revision of the model should not be considered, since parties had only the hearing at which to ask questions and point out flaws therein, unless the Commission believes that Staff's most recent revision will significantly improve upon the working model.**

CUB appreciates Staff's continuing work to upgrade its proposed formula but CUB recommends against the adoption of Staff's most recent revision to that formula since the revision was advocated so late in the process denying others the ability to properly vet and comment upon it. Unless Staff's most recent revision will impact which formula is most "accurately predictive" CUB recommends against its adoption.

**VI. Conclusion.**

CUB believes that the process in this docket while long, and somewhat tortured, is leading to a conclusion which is reasonable. CUB does not advocate for the adoption of the newest model, CUB does not advocate for the continuation of the oldest model but, CUB does advocate for a conclusion now so that the Companies can move ahead with implementation. CUB firmly believes that regardless of whether the Commission adopts its own modified formula or accepts the Stipulations entered into by the parties, the result

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<sup>8</sup> Idaho Power's September 2010 Stipulation at 5-7, sections 16, 17, 18 and 19; Joint Brief in Support of Stipulation at 1-2, "The terms of the Stipulation reflect the Parties' agreement that with certain exceptions described in the Stipulation, the Commission should allow Idaho Power to continue using the methodology for forecasting forced outage rates that Idaho Power used in its Annual Power Cost Updates, such as Docket UE 214. Idaho Power currently uses these same methods in proceedings before the Idaho Public Utilities Commission ("Idaho Commission"). The Parties have evaluated Idaho Power's current methods for forecasting forced outage rates and have found that, with the changes described in the Stipulation, the methods will accurately forecast Idaho Power's forced outage rates."

will be an improvement over the prior formula for calculation of forced outage rates and that the chosen formula should now be acceptable to all parties.

DATED this 8th day of September, 2010.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'G. C. M.', written in a cursive style.

G. Catriona McCracken #933587  
Legal Counsel  
Citizens' Utility Board of Oregon  
610 SW Broadway, Suite 400  
Portland, OR 97205  
(503)227-1984 phone  
(503)274-2956 fax  
[Catriona@oregoncub.org](mailto:Catriona@oregoncub.org)

## UM 1355 – CERTIFICATE OF SERVICE

I hereby certify that, on this 8<sup>th</sup> day of September, 2010, I served the foregoing OPENING BRIEF OF THE CITIZENS' UTILITY BOARD OF OREGON in docket UM 1355 upon each party listed in the UM 1355 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending an original and five copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

**(W denotes waiver of paper service)**

**(C denotes service of Confidential material authorized)**

**C DEPARTMENT OF JUSTICE  
MICHAEL T. WEIRICH  
ASSISTANT ATTORNEY GENERAL  
RUBS  
1162 COURT ST NE  
SALEM OR 97301-4096  
[michael.weirich@state.or.us](mailto:michael.weirich@state.or.us)**

**C OPUC  
KELCEY BROWN  
PO BOX 2148  
SALEM OR 97308-2148  
[kelcey.brown@state.or.us](mailto:kelcey.brown@state.or.us)**

**PORTLAND GENERAL ELECTRIC  
RATES & REGULATORY AFFAIRS  
121 SW SALMON ST 1WTC 0702  
PORTLAND OR 97204  
[pge.opuc.filings@pgn.com](mailto:pge.opuc.filings@pgn.com)**

**PORTLAND GENERAL  
ELECTRIC  
DOUGLAS C. TINGEY  
121 SW SALMON ST 1WTC 1301  
PORTLAND OR 97204  
[doug.tingey@pgn.com](mailto:doug.tingey@pgn.com)**

**C RFI CONSULTING INC.  
RANDALL J. FALKENBERG  
PMB 362  
8343 ROSWELL RD  
SANDY SPRINGS GA 30350  
[consultrfi@aol.com](mailto:consultrfi@aol.com)**

**C DAVISON VAN CLEVE  
MELINDA DAVISON  
333 SW TAYLOR – STE 400  
PORTLAND, OR 97204  
[mail@dvclaw.com](mailto:mail@dvclaw.com)**

**W IDAHO POWER COMPANY  
C Lisa D. Nordstrom  
Attorney  
PO BOX 70  
BOISE ID 83707-0070  
[lnordstrom@idahopower.com](mailto:lnordstrom@idahopower.com)**

**W IDAHO POWER COMPANY  
CHRISTA BEARRY  
PO BOX 70  
BOISE ID 83707-0070  
[CBEARRY@idahopower.com](mailto:CBEARRY@idahopower.com)**



**W IDAHO POWER COMPANY**

**C** Gregory W. Said  
Dir. Of Revenue Requirement  
PO BOX 70  
BOISE ID 83707-0070  
[gsaid@idahopower.com](mailto:gsaid@idahopower.com)

**W IDAHO POWER COMPANY**

Tim Tatum  
PO BOX 70  
BOISE ID 83707-0070  
[ttatum@idahopower.com](mailto:ttatum@idahopower.com)

**W IDAHO POWER COMPANY**

**C** Scott Wright  
PO BOX 70  
BOISE ID 83707-0070  
[swright@idahopower.com](mailto:swright@idahopower.com)

**W PACIFIC POWER AND LIGHT**

**C MICHELL R. MISHOE**  
LEGAL COUNSEL  
825 NE MULTNOMAH STE 1800  
PORTLAND OR 97232  
[Michelle.mishoe@pacificorp.com](mailto:Michelle.mishoe@pacificorp.com)

**W PACIFICORP OREGON**

**DOCKETS**  
825 NE MULTNOMAH STE 1800  
PORTLAND OR 97232  
[Oregondockets@pacificorp.com](mailto:Oregondockets@pacificorp.com)

**C McDOWELL & RACKNER PC**

WENDY McINDOO  
OFFICE MANAGER  
520 SW 6<sup>TH</sup> AVE STE 830  
PORTLAND OR 97204  
[wendy@med-law.com](mailto:wendy@med-law.com)

**C McDOWELL & RACKNER PC**

LISA F. RACKNER  
ATTORNEY  
520 SW 6<sup>TH</sup> AVE STE 830  
PORTLAND OR 97204  
[lisa@med-law.com](mailto:lisa@med-law.com)

**W DAVISON VAN CLEVE**

**C** IRION A SANGER  
333 SW TAYLOR - STE 400  
PORTLAND OR 97204  
[ias@dvclaw.com](mailto:ias@dvclaw.com)

**W IDAHO POWER COMPANY**

REX BLACKBURN  
PO BOX 70  
BOISE ID 83707-0070  
[rblackburn@idahopower.com](mailto:rblackburn@idahopower.com)

**MCDOWELL RACKNER &  
GIBSON PC**

ADAM LONEY  
419 SW 11TH AVE, STE 400  
PORTLAND OR 97205  
[adam@mcd-law.com](mailto:adam@mcd-law.com)

**MCDOWELL RACKNER &  
GIBSON PC**

KATHERINE A MCDOWELL  
419 SW 11TH AVE., SUITE 400  
PORTLAND OR 97205  
[katherine@mcd-law.com](mailto:katherine@mcd-law.com)

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. C. McCracken', written in a cursive style.

G. Catriona McCracken  
Legal Counsel  
The Citizens' Utility Board of Oregon  
610 SW Broadway, Ste. 400  
Portland, OR 97205  
(503)227-1984  
[Catriona@oregoncub.org](mailto:Catriona@oregoncub.org)