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## VIA ELECTRONIC FILING AND U.S. MAIL

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Public Utility Commission of Oregon  
PO Box 2148  
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**Re: Docket UE 199**

Enclosed for filing in the above docket are an original and five copies of the Joint Explanatory Brief in support of the Stipulation which was filed on June 1, 2009. A copy of this filing has been served on all parties to this proceeding as indicated on the attached Certificate of Service.

Very truly yours,

A handwritten signature in black ink, appearing to read "Amie Jamieson".

Amie Jamieson

cc: UE 199 Service List

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document in  
3 Docket UE 199 on the following named person(s) on the date indicated below by email and  
4 first-class mail addressed to said person(s) at his or her last-known address(es) indicated  
5 below.

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23 DATED: June 19, 2009

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25 \_\_\_\_\_  
26 Amie Jamieson  
Of Attorneys for PacifiCorp

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 **UE 199**

4 In the Matter of:

**JOINT EXPLANATORY BRIEF**

5 PACIFICORP, dba PACIFIC POWER  
6 2009 Transition Adjustment Mechanism  
7 Schedule 200, Cost-Based Supply Service

8 This brief explains and supports the Stipulation ("Stipulation") filed on June 1, 2009  
9 between PacifiCorp ("Company"), Staff of the Public Utility Commission of Oregon ("Staff"),  
10 the Citizens' Utility Board ("CUB"), the Industrial Customers of Northwest Utilities ("ICNU"),  
11 and Sempra Energy Solutions LLC ("Sempra") (together, the "Parties"). The Stipulation  
12 resolves most issues among the Parties related to guidelines that will govern future Transition  
13 Adjustment Mechanism ("TAM") filings by PacifiCorp ("Guidelines").

14 **I. BACKGROUND**

15 On November 12, 2008, in Order No. 08-543, the Commission adopted an all-party  
16 Stipulation in this docket resolving issues related to the Company's 2009 TAM proceeding.  
17 Under paragraph 17 of the Stipulation, PacifiCorp agreed to convene a series of TAM  
18 workshops to seek consensus on the specific elements of future TAM proceedings among the  
19 Parties. These issues would include, but not be limited to, cost elements to be included in the  
20 initial filing and each update, requirements for the content and timing of workpapers, and the  
21 mechanism for accounting for increased/decreased revenues due to load growth/loss. The  
22 workshops would be convened in a manner that would result in Commission resolution of the  
23 open questions by June 1, 2009 or in time for PacifiCorp to implement in its first 2010 TAM  
24 update.

25 PacifiCorp also agreed that if the Parties could not reach consensus on the elements  
26 of TAM updates, revenue growth, and filing requirements in the workshops, the Company

1 would initiate a Commission proceeding to resolve the issues. The Company agreed to  
2 initiate this proceeding by January 15, 2009.

3 The Parties convened a number of workshops and meetings to come to agreement on  
4 the design of future TAM proceedings. The Parties agreed to two extensions of the  
5 January 15, 2009 filing date for the Company to initiate a Commission proceeding to resolve  
6 the TAM design issues, to February 5, 2009.

7 On February 5, 2009, PacifiCorp filed its Compliance Filing for Initiation of Commission  
8 Proceeding to Resolve TAM Design Issues. The Commission held a prehearing conference  
9 on April 27, 2009 at which the Parties agreed to convene a settlement conference and  
10 requested that Administrative Law Judge Patrick Power convene an additional prehearing  
11 conference on May 14, 2009.

12 The Parties convened a settlement conference on May 7, 2008. All parties to the  
13 docket participated in the settlement conference. As a result of the settlement conference and  
14 follow-up negotiations, the Parties have reached agreement on guidelines governing future  
15 TAM proceedings. The Parties filed the Stipulation with the Commission memorializing the  
16 Parties' agreement on June 1, 2009.

## 17 II. DISCUSSION

### 18 A. The Guidelines Provide the Parties and the Commission with Specific 19 Parameters Governing Future TAM Filings.

20 The terms of the Stipulation reflect the Parties' agreement that the Commission should  
21 adopt the Guidelines that will presumptively govern the Company's future TAM filings and  
22 aspects of the Company's current TAM filing.<sup>1</sup> The purpose of these Guidelines is to  
23 decrease future controversy over the scope of the Company's TAM update filings, the  
24 procedures applicable to these filings, and the documents and support the Company will

25 \_\_\_\_\_  
26 <sup>1</sup> Stipulation ¶ 7. The Stipulation provides that the Parties will follow the TAM Guidelines for the rebuttal  
and final updates in UE 207 unless the Guidelines expressly provide that they are inapplicable to UE 207.

1 provide with the TAM and TAM updates. Parties have raised issues related to scope and  
2 procedure in most recent TAM filings, suggesting the need for guidelines on these issues to  
3 supplement and clarify the Commission's order adopting the TAM in UE 170, Order No. 05-  
4 1050. These issues have been especially challenging when the TAM is filed on a stand-alone  
5 basis, separate from a rate case.

6 The Guidelines contain provisions describing the general purpose and scope of TAM  
7 proceedings. The Guidelines provide a list of other workpapers and supporting documents  
8 that the Company will provide with its Initial Filing and updates.<sup>2</sup> In addition, the Guidelines  
9 provide specific guidance on timing and elements of different filings in TAM proceedings, the  
10 central elements of which are described below.<sup>3</sup>

11 The Guidelines do not resolve all issues related to the process and scope of the TAM.  
12 For example, the parties did not resolve whether: (1) changes in methodologies utilized in the  
13 calculation of net power costs, such as those used to calculate normalized hydro or forced or  
14 planned outage rates or calculation issues resolved by the Commission, will be permitted in  
15 stand-alone TAM proceedings; and (2) a stand-alone TAM should include the variable costs of  
16 new generation resources if the Company will not recover the fixed costs of the generation  
17 resource in the TAM rate effective period. In addition, the parties could not reach agreement  
18 regarding the process by which a party would object or challenge an issue regarding

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20 <sup>2</sup> Guidelines at 2, 3, Attachment B.

21 <sup>3</sup> The Guidelines defer for litigation in Docket UE 210, the Company's most recent general rate case, the following issues:

22 whether: (1) changes in methodologies utilized in the calculation of net  
23 power costs, such as those used to calculate normalized hydro or forced  
24 or planned outage rates or calculation issues resolved by the  
25 Commission, will be permitted in stand-alone TAM proceedings; and (2)  
a stand-alone TAM should include the variable costs of new generation  
resources if the Company will not recover the fixed costs of the  
generation resource in the TAM rate effective period.

26 Guidelines at 1. In addition, the Parties agreed that they may address in Docket UE 207 whether non-fuel start-up costs may be included in a stand-alone TAM filing. Guidelines at 2.

1 PacifiCorp's Final Update, and the parties simply agreed upon generic language that parties  
2 reserve all their procedural rights to seek review of controverted issues in the Final Update.

3 **1. Initial Filing**

4 The Guidelines include a list of net power cost components that the Company will  
5 include in its Initial Filing.<sup>4</sup> The initial net power costs will be based on the Company's most  
6 recent official forward price curve, forecast load, and allocation factors.<sup>5</sup>

7 In the Initial Filing, the Company agreed to identify and provide adequate support for  
8 all known contracts that the Company expects to update or add in the Rebuttal and Final  
9 Updates.<sup>6</sup> The Guidelines allow the Company to add a new contract or update a contract that  
10 was not identified in the Initial Filing if the Company provides notification of the omission and  
11 the new contract or contract update is either based upon new information that the Company  
12 reasonably became aware of after it completed the net power cost study for the Initial Filing or  
13 was the result of a mistake that occurred despite the Company's reasonable diligence in  
14 meeting its obligation to include contracts expected to be subject to update in the Initial Filing.<sup>7</sup>  
15 The Company also agrees to identify contracts modeled in the test period under which the  
16 Company has made a liquidated damages claim.<sup>8</sup>

17 The Guidelines provide a notice procedure for the Company's corrections to and  
18 omissions from the Initial Filing.<sup>9</sup> The Company agrees to identify all corrections or omissions  
19 in a summary document 15 business days before Staff and Intervenor Direct Testimony is  
20 due.<sup>10</sup>

21 \_\_\_\_\_  
22 <sup>4</sup> Guidelines at 1; Attachment A.

23 <sup>5</sup> Guidelines at 1.

24 <sup>6</sup> Guidelines at 2.

25 <sup>7</sup> *Id.*

26 <sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

1           **2.       Rebuttal Update**

2           The Guidelines outline the scope of the Company's update to forecast net power costs  
3 in its rebuttal filing.<sup>11</sup> The Rebuttal Update will update the most recent official forward price  
4 curve and new power, fuel, and transportation/transmission contracts, both physical and  
5 financial, and updates to existing contracts.<sup>12</sup> The Rebuttal Update may also include  
6 corrections to or address omissions in the components included in the Initial Filing that are  
7 compliant with the procedures set forth in Guidelines.<sup>13</sup> The Company may correct or address  
8 omissions in components of the Rebuttal Update within five business days after filing the  
9 Rebuttal Update.<sup>14</sup>

10           **3.       Final Updates**

11           The Guidelines provide that the Company will file the Final Update at least five  
12 business days prior to the direct access window.<sup>15</sup> The Final Update will include an update to  
13 net power costs that includes Commission ordered adjustments, the forward price curve from  
14 within nine days of the filing date, and new contracts or updates to existing contracts.<sup>16</sup> In  
15 addition, the Company will post indicative transition adjustments for Schedules 294 and 295  
16 and provide indicative supply service net power cost rates (to be Schedule 201).<sup>17</sup> On  
17 November 15, the Company will file an update to net power costs incorporating the forward  
18 price curve from within seven days of the filing date, post final transition adjustments for  
19 Schedules 294 and 295, and provide supply service net power cost rates (to be Schedule  
20 201).<sup>18</sup>

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21 <sup>11</sup> *Id.*

22 <sup>12</sup> *Id.*

23 <sup>13</sup> *Id.* at 3.

24 <sup>14</sup> *Id.*

25 <sup>15</sup> *Id.*

26 <sup>16</sup> *Id.* at 3-4.

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.*

1 The Parties also agreed to meet to consider whether to recommend to the  
2 Commission an extension in length for the shopping window for PacifiCorp's multi-year direct  
3 access option beginning in November 2009.<sup>19</sup>

4 **4. Rate Design**

5 The Guidelines state that proposed net power costs are unbundled from other  
6 generation costs in the Company's current general rate case.<sup>20</sup> All net power costs will be  
7 collected through a new Schedule 201, Net Power Costs – Transition Adjustment Mechanism,  
8 which will be a rider to Schedule 200.<sup>21</sup> Schedule 200 will continue to collect other generation  
9 costs.<sup>22</sup> The Guidelines provide that in a stand-alone TAM, the rate design test year will be  
10 the forecast test year during which the Schedule 201 rates will be effective.<sup>23</sup> When the TAM  
11 is filed in or processed with a general rate case, the TAM rate design test year will be the  
12 general rate case test year.<sup>24</sup> The Guidelines also contain a provision that allows the Parties  
13 to review whether the rate spread for TAM rates may be unfair, unjust, or unreasonable if the  
14 Company has not filed a general rate case within 4 years of the filing of UE 210 and does not  
15 intend to make such a filing before March 1, 2014. In such a case, a party may elect by  
16 September 1, 2013 to require PacifiCorp to file its next TAM in or concurrently with a general  
17 rate case.<sup>25</sup> In addition, the Guidelines describe how proposed Schedule 201 revenues by  
18 rate schedule will be spread, direct that they reflect projected test year sales forecasts, and  
19 provide that the proposed Schedule 201 rate design will reflect the method prescribed by the  
20 Commission in the most recent relevant proceeding.<sup>26</sup>

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21 <sup>19</sup> *Id.*

22 <sup>20</sup> *Id.*

23 <sup>21</sup> *Id.*

24 <sup>22</sup> *Id.*

25 <sup>23</sup> *Id.*

26 <sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 5.



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2           **5. TAM Filings Made in or Processed Concurrently with a General Rate Case.**

3           The Guidelines contain provisions describing TAM process issues relevant when the  
4 TAM is filed in a year in which the Company files a general rate case.<sup>27</sup> When that occurs, the  
5 TAM will be included in or processed concurrently with the general rate case.<sup>28</sup> The Company  
6 agrees that both filings will be made no later than March 1 to allow for a January 1 effective  
7 date. A stand-alone TAM will be filed no later than April 1.<sup>29</sup>

8           **B. The Guidelines Will Benefit the Parties, the Commission, and Customers.**

9           The Commission should adopt the Guidelines because they represent the consensus  
10 of the parties with respect to specific elements of future TAM proceedings, as required by the  
11 Commission in Order No. 08-543 in PacifiCorp's 2009 TAM. In that order, the Commission  
12 adopted a Stipulation that specifically required the parties to work together to resolve TAM  
13 design issues. The Guidelines represent a reasonable compromise among the Parties and  
14 set forth clear objectives and principles presumptively governing future Company TAM filings.  
15 See *In Re Consider Adoption of Guidelines*, Docket UM 1070, Order No. 04-095 at 2 (Feb. 19,  
16 2004) and *Matter of an Investigation Regarding Competitive Bidding*, Docket UM 1182, Order  
17 No. 06-446 at 2 (Aug. 10, 2006) (guidelines adopted so that "utilities will clearly understand  
18 our preferences").

19           The parties hope that the adoption of the Guidelines will streamline future TAM filings  
20 by clarifying the TAM process and content of Company filings. See *Re Elective Utility*  
21 *Purchases from Qualifying Facilities*, Docket UM 1129, Order No. 07-360 at 5 (Aug. 20, 2007)  
22 ("Guidelines are likely to be useful to both parties in contract negotiations. Guidelines will  
23 increase certainty and may streamline the process, to the ultimate benefit of customers.") and

24 \_\_\_\_\_  
<sup>27</sup> *Id.*

25 <sup>28</sup> *Id.*

26 <sup>29</sup> *Id.*

1 *Re Guidelines for the Treatment of External Environmental Costs*, Docket UM 424, Order No.  
2 93-695, 142 P.U.R.4th 465 (May 17, 1993) (guidelines adopted in part to ensure utilities  
3 provide necessary information in their least cost plan). The Commission has previously found  
4 that streamlining processes through the implementation of guidelines ultimately benefits  
5 ratepayers. *Id.* In sum, the parties hope that these Guidelines will reduce disputes regarding  
6 the process and content of PacifiCorp's future TAM filings, thereby providing benefit to the  
7 Commission, the Parties, and PacifiCorp's ratepayers.

8 **III. CONCLUSION**

9 For the reasons set forth above, the Parties respectfully request that the Commission  
10 adopt the Stipulation.

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1 Dated: June 19, 2009

2 Respectfully submitted,

3 **McDOWELL & RACKNER PC**

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