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November 25, 2009

VIA ELECTRONIC FILING AND U.S. MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
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Re: Docket UE 210

Enclosed for filing in the above docket are an original and five copies of the Joint Parties' Opening Brief. 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,



Katherine McDowell

cc: UE 210 Service List

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in Docket UE 210 on the following named person(s) on the date indicated below by email and first-class mail addressed to said person(s) at his or her last-known address(es) indicated below.


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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 210

In the Matter of PacifiCorp's Filing of
Revised Tariff Schedules for Electric
Service in Oregon

JOINT PARTIES' OPENING BRIEF

Pursuant to Administrative Law Judge ("ALJ") Lisa Hardie's Ruling on October 30, 2009, PacifiCorp d/b/a Pacific Power (or the "Company"), Staff of the Public Utility Commission of Oregon ("Staff"), the Citizens' Utility Board of Oregon ("CUB"), Fred Meyer Food Stores and Quality Food Centers, Divisions of The Kroger Co. ("Kroger"), and Klamath Water Users Association ("KWUA") (collectively, "Joint Parties") submit this Opening Brief to the Public Utility Commission of Oregon ("Commission").

I. INTRODUCTION

On September 25, 2009, the Joint Parties filed a Revenue Requirement Stipulation ("Stipulation") resolving all revenue requirement issues in this proceeding. The Joint Parties consist of five of the six active parties in this case. In testimony in opposition to the Stipulation, the Industrial Customers of Northwest Utilities ("ICNU") recommends that the Commission reject the Stipulation or approve the Stipulation contingent on ICNU's proposed modifications. These modifications are additional adjustments to rate base and Oregon-allocated labor costs, a renewable energy credit ("REC") tracking requirement, and ICNU's proposed return on equity ("ROE") and capital structure.

ICNU's testimony provides no basis for the Commission to reject the Stipulation or to order modifications. The Stipulation is supported by most parties in this case, substantiated by ample evidence in the record, and results in just and reasonable rates. The Joint Parties therefore respectfully request that the Commission approve the Stipulation as filed.

1 **II. BACKGROUND**

2 **A. Procedural History**

3 On April 2, 2009, PacifiCorp filed a general rate increase, pursuant to ORS 757.205
4 and ORS 757.220. The filing was the Company's first general rate case in Oregon since
5 Docket UE 179 in 2006. The Commission suspended the filing, setting a rate effective date of
6 February 2, 2010.

7 The test year for this filing is the 12 months ending December 31, 2010. The
8 Company's filing showed that it was currently earning an ROE in Oregon of 6.5 percent.
9 PacifiCorp requested an ROE of 11.0 percent and an overall price increase of \$92.1 million, or
10 9.1 percent, to reach the requested ROE.

11 ALJs Hardie and Sarah Wallace recognized CUB's notice of intervention and granted
12 petitions to intervene from ICNU, KWUA, Kroger, and Portland General Electric Company
13 ("PGE").

14 In addition to the opening testimony filed with the Company's initial application in this
15 proceeding, PacifiCorp filed supplemental opening testimony on June 5, 2009, pursuant to a
16 ruling by the ALJs on May 15, 2009. Staff, CUB, ICNU, Kroger, and KWUA filed opening
17 testimony on July 24, 2009, to which the Company replied on August 31, 2009.

18 **B. Revenue Requirement Stipulation**

19 The parties to this docket convened a settlement conference on June 24, 2009. The
20 parties held additional settlement conferences on August 20 and September 10, 2009. The
21 settlement conferences resulted in two stipulations, both filed on September 25, 2009. First,
22 all active parties in the docket¹ joined in a Rate Spread and Rate Design Stipulation that
23 resolved all issues related to rate spread and rate design.

24 _____
25 ¹ PGE was not an active participant in this docket and was not a party to either the Revenue
26 Requirement Stipulation or the Rate Spread and Rate Design Stipulation. PGE, however, does not object
to the stipulations.

1 Second, the Joint Parties filed the Stipulation resolving all issues related to revenue
2 requirement. The Joint Parties agreed to a total revenue requirement increase of
3 \$41.5 million in base rates. Stipulation ¶ 7. The Stipulation includes an exhibit that explains
4 the calculation of the \$41.5 million increase based on a resolution of adjustments proposed by
5 the Joint Parties. Stipulation at Exhibit A; Joint/100.² The Stipulation also allowed the
6 Company to fully amortize three regulatory assets—the Transition Plan, MEHC Change in
7 Control, and Grid West—through three new, separate tariff riders. Stipulation ¶ 11. Rates to
8 recover the stipulated revenue requirement and new tariff riders will go into effect on
9 February 2, 2010. Stipulation ¶ 13. The net rate increase, including the new tariff riders, is
10 4.6 percent. Joint/100, Garcia *et al.*/4, ll. 1-4.

11 The Stipulation recommends that the Company's overall rate of return ("ROR") be set
12 at 8.08 percent. Stipulation ¶ 8. The Joint Parties did not agree on the individual capital
13 components that result in this ROR. The Joint Parties, however, agreed that for the
14 calculation of taxes collected in rates for Oregon and other Oregon regulatory purposes, such
15 analysis will use the rate of return components specified in the Stipulation. *Id.*

16 The Joint Parties also agreed that the Company prudently acquired the Lake Side,
17 Chehalis, Seven Mile Hill II, Glenrock III, and High Plains generating resources, that such
18 resources are used and useful, and that the costs of the resources should be included in the
19 Company's Oregon rate base. Stipulation ¶ 9. The Joint Parties also agreed that the
20 Company will use flow-through treatment for AFUDC equity in this and future cases, effective
21 January 1, 2010. Stipulation ¶ 10.

22

23

24 ² To distinguish between the joint testimony supporting the Revenue Requirement Stipulation and
25 the Rate Spread and Rate Design Stipulation, the testimony supporting the Revenue Requirement
26 Stipulation was labeled "Joint—Revenue Requirement/100." For ease of reference, the testimony is
referred to as "Joint/100" and the reply testimony as "Joint/200" in this brief.

26

1 **C. ICNU's Objection to the Stipulation**

2 On October 21, 2009, ICNU filed response testimony in opposition to the Stipulation.
3 ICNU Witness Michael Early filed testimony arguing that current economic conditions militate
4 against increasing rates, characterizing the Stipulation as a "black box" settlement, claiming
5 that the Stipulation will allow PacifiCorp to recover costs for rate base that will not be used and
6 useful, and proposing a REC tracking requirement. ICNU Witness Ellen Blumenthal proposed
7 new adjustments to non-union wages and incentive pay and an adjustment to Oregon-
8 allocated labor costs. ICNU Witness Michael Gorman recommended that the Commission
9 adopt ICNU's originally proposed ROE and capital structure and thereby reduce the rate of
10 return in the Stipulation. The Joint Parties filed reply testimony in support of the Stipulation on
11 October 29, 2009.

12 **III. ARGUMENT**

13 **A. The Commission Should Approve the Stipulation Because It Is Supported by the**
14 **Evidence and Results in Just and Reasonable Rates.**

15 The Commission will approve a stipulation that is supported by evidence and results in
16 just and reasonable rates. *See Re. PacifiCorp Request for a General Rate Increase in the*
17 *Company's Oregon Annual Revenues*, Docket UE 170, Order No. 05-1050 at 7 (Sept. 28,
18 2005). The Stipulation clearly satisfies this standard.

19 In the Company's opening and supplemental testimony, the Company provided
20 evidentiary support for its original rate increase of 9.1 percent. *See Joint/100, Garcia et al./12,*
21 *II. 11-13.* The parties in this proceeding conducted extensive discovery on the Company's
22 filing, which included more than 600 data requests to the Company. *Joint/100, Garcia et al./2,*
23 *II. 20-24.* Five parties in the docket then filed opening testimony, followed by the Company
24 filing reply testimony. The Commission recently approved a stipulation based on a much less
25 extensive evidentiary record than exists in this proceeding. *Re Avista Corp. Request for a*
26 *General Rate Revision*, Docket UG 186, Order No. 09-422 at 8 (Oct. 26, 2009) [hereinafter

1 "Order No. 09-422"] (approving a general rate case stipulation after only the utility filed
2 testimony). The extensive evidentiary record in this proceeding supports the terms of the
3 Stipulation.

4 In addition, the Stipulation results in just and reasonable rates. The Company has not
5 filed a general rate case since 2006. This filing included several major rate base additions,
6 including nearly 1000 MW of new gas-fired resources and three new wind resources. Yet, the
7 stipulated rate increase is approximately one-half of the Company's original request—
8 4.6 percent compared with 9.1 percent. The stipulated revenue requirement represents a
9 \$40.6 million reduction from that proposed by the Company. Joint/100, Garcia *et al.*/24, I.6. It
10 reflects a number of adjustments proposed by Staff and CUB and compromises cost of capital
11 at roughly the level currently approved. Joint/100, Garcia *et al.*/5 I. 20-7, I. 5.

12 The Stipulation also includes a number of adjustments proposed by ICNU. Joint/100,
13 Garcia *et al.*/7, II. 6-23. CUB originally co-sponsored the testimony of Ms. Blumenthal and
14 Mr. Gorman in this case. CUB's testimony in support of the Stipulation explains that CUB
15 supports the Stipulation because it reflects more than 80 percent of the reduction in revenue
16 requirement these witnesses proposed. Joint/100, Garcia *et al.*/24, I.6.

17 **1. ICNU's Argument that the Stipulation Should Be Rejected because it is a**
18 **"Black Box" Settlement is Incorrect and in Conflict with Commission**
Precedent.

19 ICNU criticizes the Stipulation as a "black box" agreement that is improper in the
20 context of a contested settlement. ICNU's criticism is in conflict with the Commission's
21 standard for approval of stipulations. When considering a stipulation, the Commission does
22 not evaluate and approve every adjustment. The Commission evaluates the validity of the
23 rates based on "the reasonableness of the overall rates, not the theories or methodologies
24 used or individual decisions made." *Re. Application of Portland General Electric Co. for an*
25 *Investigation into Least Cost Plant Retirement, Docket DR 10 et al., Order No. 08-487 at 7-8*
26 (Sept. 30, 2008).

1 The Commission reiterated this standard for evaluation of stipulated rates in Avista's
2 recent rate case, stating that "the Commission recognizes that general rate case issues
3 typically reflect judgments along a continuum of outcomes and rarely can be reduced to one
4 'right' number in any cost category." Order No. 09-422 at 8. ICNU, however, is requesting
5 that the Commission reduce the Stipulation to one "right" number in certain cost categories.
6 ICNU's argument that the Commission should reject the Stipulation because it does not reflect
7 specific adjustments proposed by ICNU is in conflict with Commission precedent on
8 stipulations.

9 In addition, the Joint Parties object to ICNU's characterization of the Stipulation as a
10 "black box" agreement. The Joint Parties' testimony explains the agreed level of overall
11 revenue requirement, describes the agreed adjustments to the Company's proposed revenue
12 requirement, and provides a Results-of-Operations/summary view of each of the stipulated
13 adjustments. See Joint/100, Garcia et al./5-7; Stipulation at Exhibit A. The Commission has
14 accepted stipulations containing a similar level of detail in the past, including stipulations to
15 which ICNU was a signatory. See *Re. PacifiCorp Request for a General Rate Increase in the*
16 *Company's Oregon Annual Revenues*, Docket UE 179, Order No. 06-530 (Sept. 14, 2006).
17 ICNU provides no basis for changing Commission policy in this proceeding.

18 Finally, ICNU's proposed standard for approving Stipulations runs contrary to the
19 Commission policy to encourage parties to "voluntarily resolve issues to the extent
20 that settlement is in the public interest." *Re. PacifiCorp's 2010 Transition Adjustment*
21 *Mechanism*, Docket UE 207, Order No. 09-432 at 6 (Oct. 30, 2009). See also *Re. Portland*
22 *General Electric Co.'s Application for Approval to Transfer Property*, Docket UP 237, Order
23 No. 09-009 at 2 (Jan. 15, 2009). Requiring stipulating parties to include not only agreed-upon
24 results but also agreement with respect to specific adjustments and methodologies would
25 preclude settlement in many cases.

26

1 **2. ICNU's Argument that the Current Economic Climate Calls for Rejection**
2 **of the Stipulation Lacks Evidentiary Support and is Contradicted by**
3 **ICNU's Own Testimony.**

4 ICNU argues in Mr. Early's testimony that a rate increase is inappropriate in light of the
5 current economic climate. ICNU/700, Early/3, ll. 14-16. Mr. Early's testimony is undermined,
6 however, by Mr. Gorman's testimony on behalf of ICNU that the economic outlook is
7 improving. ICNU/500, Gorman/4, ll. 15-16. Furthermore, Mr. Early's testimony about the
8 current economic climate consists of unsubstantiated statements, not specific evidence. The
9 Commission should not use Mr. Early's unsupported statements as a basis for rejecting the
10 Stipulation.

11 Mr. Early also argues that the surcharge reflected in PacifiCorp's recent 2008 tax
12 report filing in Docket UE 177 shows that PacifiCorp must be overearning. ICNU/700, Early/4,
13 ll. 1-6. Mr. Early is mistaken. First, the comparison between the 2008 tax report and the
14 Company's projected earnings in this proceeding is inapt, because the Stipulation is based on
15 a test period of 2010, and the tax report was based on 2008. Second, Mr. Early does not
16 support his conclusion with any facts. Finally, the uncontested evidence in this proceeding
17 shows that PacifiCorp will underearn at its current rate levels. See PPL/700, Dalley/2-3.
18 Mr. Early's unsupported statements regarding the Company's 2008 tax report do nothing to
19 undermine this evidence.

20 **B. The Commission Should Reject ICNU's Proposed Adjustments to the Stipulated**
21 **Revenue Requirement.**

22 ICNU presented a number of specific adjustments that ICNU argues are not reflected
23 in the Stipulation and therefore warrant rejection of the Stipulation. Not only are ICNU's
24 arguments in support of these adjustments inconsistent with the Commission's evaluation of
25 stipulated rates, described in Section III.A. above, ICNU's arguments on the specific
26 adjustments are without merit.

1 **1. The Stipulation Will Not Allow Recovery for Costs Related to Property**
2 **that Will Not Be Used and Useful in the Rate Effective Period.**

3 ICNU claims that the Stipulation improperly allows the Company to recover for costs
4 related to property that is not used and useful. Notably, ICNU did not raise this issue in its
5 opening testimony; it was only after the Parties filed the Stipulation that ICNU proposed an
6 adjustment to rate base, attempting to resurrect Staff's now-settled adjustment to
7 miscellaneous rate base.

8 In opening testimony, Staff proposed to remove costs related to rate base items that
9 were scheduled to go into service after rates took effect and rate base items with "monthly" or
10 "variable" in-service dates. Staff/100, Garcia/6, ll. 10-17. Staff argued that these rate base
11 additions were not "known and measurable" and should therefore be excluded from rate base
12 in order to comply with ORS 757.355.³ Staff/100, Garcia/7-8.

13 In reply testimony, the Company objected to Staff's rate base adjustment and Staff's
14 interpretation of ORS 757.355. PPL/706, Dalley/18, ll. 12-18. The Company presented
15 evidence that Staff's proposal would reduce the Company's rate base to below the Company's
16 actual June 2009 level of rate base. PPL/706, Dalley/23. The Company also argued that
17 Staff's interpretation of "known and measurable" is contrary to Commission precedent and
18 would effectively preclude the use of a forecast test year. PPL/706, Dalley/21-22.

19 In resolving this issue in settlement, the Joint Parties agreed to reduce the level of the
20 Company's rate base to address Staff's position on ORS 757.355. Joint Reply/200, Garcia *et*
21 *al.*/8, l. 12-Garcia *et al.*/9, l. 2. The Stipulation removes the amount of miscellaneous rate
22 base that Staff contested on the basis that it might not be used and useful in the test year.

23
24 ³ ORS 757.355 states: "(1) Except as provided in subsection (2) of this section, a public utility
25 may not, directly or indirectly, by any device, charge, demand, collect or receive from any customer rates
26 that include the costs of construction, building, installation or real or personal property not presently used
for providing utility service to the customer."

1 Additionally, the evidence shows that the Stipulation includes a level of Oregon-
2 allocated net electric plant in service that is almost \$50 million lower than the Company's net
3 plant in service will be at the beginning of 2010. Joint Reply/200, Garcia *et al.*/9, II. 3-14. This
4 fact provides further evidence that the stipulated level of rate base reflects only property that
5 will be used and useful in the rate effective period. ICNU has presented no evidence to show
6 that the Company will be recovering for costs related to property that is not used and useful.
7 ICNU's rate base argument should therefore be rejected.

8 **2. The Level of Labor Costs Reflected in the Stipulation are Reasonable.**

9 ICNU presents three objections to the total Company and Oregon-allocated levels of
10 wages and salaries reflected in the Stipulation. First, ICNU proposes to exclude the
11 escalation of wages for all non-union wages. ICNU proposed this adjustment for the first time
12 in its testimony in opposition to the Stipulation and provides no evidence to support the
13 adjustment. Ms. Blumenthal's only justification for this adjustment is the state of the economy.
14 ICNU/600, Blumenthal/8, I. 9-9, I. 2. This testimony does not explain why this adjustment is
15 necessary now, but was not necessary when ICNU filed opening testimony. Furthermore, this
16 argument is undermined by Mr. Gorman's testimony that the economic outlook is improving.
17 ICNU/500, Gorman/4, II. 15-16.

18 In addition, in calculating the adjustment to non-union wages, Ms. Blumenthal removes
19 the non-union wage and salary increases that occurred from the beginning of the base period,
20 July 2007, through the end of the test period, December 2010—a total of 42 months. Joint
21 Reply/200, Garcia *et al.*/3-10. Ms. Blumenthal's testimony inaccurately states only that she
22 removed only the 3.8 percent increase (which occurred in January 2009), when in fact she
23 removed 3.5 years of wage and salary increases. ICNU/600, Blumenthal/8, II. 7-9.
24 Ms. Blumenthal proposed this adjustment in spite of the fact that the Company did not include
25 an increase to non-union wages in the 2010 test year, a fact which helps to demonstrate the
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1 reasonableness of the labor costs included in the Stipulation. See Joint Reply/200, Garcia *et*
2 *al.*/12, ll. 18-20.

3 Second, ICNU proposes to remove all bonus and incentive compensation in this case.
4 This proposal is in contrast to ICNU's position in opening testimony to remove only one-half of
5 bonus and incentive compensation. See ICNU-CUB/400, Blumenthal/9, ll. 17-20. ICNU fails
6 to recognize that the Stipulation generally reflected ICNU's original proposal. Joint Reply/200,
7 Garcia, *et al.*/13, ll. 12-17. ICNU again points to current economic circumstances as the basis
8 for its newly expanded adjustment, without explaining what has changed since its opening
9 testimony to justify removal of all bonus and incentive compensation.

10 Third, ICNU argues that based on the estimated Oregon-allocated wage and salary
11 data provided by the Company, Oregon should be allocated 27.8 percent of total Company
12 payroll, compared with the 29.5 percent Oregon allocation used by the Company. ICNU/600,
13 Blumenthal/9, ll. 8-10. Ms. Blumenthal's testimony on this issue incorrectly states that the
14 Company does not use actual data to set labor costs. ICNU/600, Blumenthal/3, ll. 6-15. As
15 PacifiCorp explained in data responses to ICNU and in the Joint Parties' reply testimony, the
16 Company's accounting system runs labor allocation settlements on a fully loaded basis, not
17 for wages and salaries alone. Joint/200, Garcia *et al.*/15, ll. 6-8; Exhibit PPL/710. In order to
18 accommodate ICNU's request for such information, the Company provided estimates of the
19 Oregon-allocated wages and salaries separate from total labor costs. Joint/200, Garcia *et*
20 *al.*/15, ll. 10-14. But, the Company used its actual, not estimated, total Oregon-allocated labor
21 costs in this filing. ICNU provides no reasonable basis for using estimates of a portion of
22 Oregon-allocated labor costs to calculate total actual Oregon-allocated labor costs.

23 Moreover, ICNU uses an historical trend to calculate the proposed Oregon allocation
24 of 27.8 percent. ICNU/600, Blumenthal/9, ll. 8-13. The Company calculates allocation factors
25 based on load forecasts, not historical trends. Joint/200, Garcia/17, ll. 17-18. ICNU has not
26 taken issue with the Company's load forecasts in this proceeding and presents no basis for

1 using an historical trend to calculate labor costs, while using load forecasts to develop all
2 other costs in the Company's revenue requirement.

3 The evidence in this proceeding shows that the overall Oregon allocation of labor costs
4 is 29.5 percent. PPL/706, Dalley/43, ll. 4-8; PPL/702. ICNU has presented no reasonable
5 basis for the Commission to disregard this allocation calculation. The Joint Parties
6 recommend that the Commission reject ICNU's proposed adjustment to Oregon-allocated total
7 labor costs.

8 **C. ICNU's Proposal Regarding Renewable Energy Credits is Unnecessary in Light**
9 **of Oregon Rules.**

10 ICNU also recommends that the Commission impose a condition on the Stipulation
11 requiring the Company to record the sale of Oregon-allocated RECs in a balancing account.
12 ICNU did not propose this condition in its opening testimony. Staff made a similar proposal in
13 its opening testimony, but ultimately agreed that the condition was not necessary in light of the
14 Commission's recently adopted rules on RECs and the fact that the Company is banking all
15 Oregon-eligible RECs in 2010. See Joint Reply/200, Garcia *et al.*/10-11.

16 The Commission adopted rules in August, 2009, that require detailed reporting on the
17 number and cost of RECs forecast, issued, banked, retired, and sold. See OAR 860-083-
18 0350 and -0400. The rules also require that if the Company plans to sell RECs included in
19 Oregon rates, it must demonstrate that the sale would "appropriately balance cost and risk."
20 *Re. Rulemaking to Implement SB 838 Relating to Renewable Portfolio Standards*, Docket
21 AR 518, Order No. 09-299 at 7 (Aug. 3, 2009). ICNU's proposal would provide no additional
22 benefits beyond what is already required by Oregon rules.

23 ICNU's reference to the recent settlement in Washington as support for its REC
24 proposal is unavailing. See Joint Reply/200, Garcia *et al.*/10, l. 12-11, l. 10. Notably, the
25 provision in the Washington stipulation to which PacifiCorp agreed requires REC *reporting*,
26 which is already required by Oregon rules, not the tracking of REC sales to a balancing

1 account as ICNU proposes. Joint Reply/200, Garcia *et al.*/10, ll. 19-22. Moreover, the
2 Oregon RPS allows unlimited banking of RECs. Joint Reply/200, Garcia *et al.*/10, ll. 3-10.
3 The Washington RPS, in contrast, allows for a limited ability to bank RECs, making it more
4 likely that the Company would sell Washington-eligible RECs in 2010 and making a REC
5 reporting requirement more relevant in Washington. *Id.* The Washington stipulation
6 recognizes that the stipulated reporting requirements may not be necessary in the future. *Id.*
7 The Commission should therefore disregard ICNU's reliance on the recent stipulation in
8 Washington for support of its REC proposal.

9 **D. The Commission Should Reject ICNU's Proposed ROE and Capital Structure.**

10 Finally, the Commission should reject ICNU's recommended ROE and capital
11 structure. While ICNU challenges the ROE and capital structure notionally used in the
12 Stipulation, ICNU does not challenge the stipulated ROR. This omission is important for two
13 reasons. First, ROR is the only element of cost of capital to which the Joint Parties actually
14 stipulated. Joint Reply/200, Garcia, *et al.*/18, ll. 15-18. The Joint Parties used specific cost of
15 capital components only for calculating taxes collected in rates for purposes of SB 408. The
16 Joint Parties did not accept the ROE and capital structure that ICNU now challenges.

17 Second, ICNU has not argued, and indeed has no reasonable basis to argue, that the
18 stipulated ROR is unreasonable. The stipulated ROR of 8.08 percent is close to the
19 8.01 percent ROR that ICNU proposed in opening testimony. Joint Reply/200, Garcia *et*
20 *al.*/17, ll. 5-10. Additionally, the stipulated ROR reflects a decrease from the 8.16 percent
21 currently included in rates. Joint/200, Garcia *et al.*/19, ll. 6-10.

22 While ICNU does not directly challenge the reasonableness of the stipulated ROR,
23 ICNU argues that the Commission should order a 10.0 percent ROE, in contrast to the
24 10.125 percent notionally used in the Stipulation. ICNU/500, Gorman/1, ll. 18-20.
25 Mr. Gorman's arguments in favor of ICNU's proposed ROE are unconvincing. First,
26 Mr. Gorman argues that market conditions have improved significantly, so a lower ROE is

1 justified. ICNU/500, Gorman/4, ll. 15-16. Mr. Gorman not only presents no evidence to
2 support this claim, but contradicts ICNU's other witnesses Ms. Blumenthal and Mr. Early who
3 cite the poor economy as a basis for reducing revenue requirement in this proceeding. See
4 ICNU/600, Blumenthal/2, ll. 4-6; ICNU/700, Early/3, ll. 14-16.

5 Second, the ROE referenced in the Stipulation is within the range of reasonable results
6 as proposed by Staff, PacifiCorp, CUB, and ICNU itself. Joint Reply/200, Garcia *et al.*/19, ll.
7 12-21. In opening testimony, Mr. Gorman proposed a reasonable range of ROE of
8 9.36 percent to 10.4 percent. ICNU-CUB/300, Gorman/2, ll. 1-2. The 10.125 percent ROE
9 referenced in the Stipulation is well within the reasonable range proposed by ICNU. In
10 addition, of the seven methods used by Mr. Gorman to calculate ROE, only three resulted in
11 ROEs lower than 10.125 percent. Joint Reply/200, Garcia *et al.*/20, ll. 5-8. Finally, removing
12 the calculation of ROEs that Mr. Gorman himself defines as unreasonable, the average ROE
13 estimate of his studies is 10.4 percent, above the 10.125 percent referenced in the Stipulation.
14 Joint Reply/200, Garcia *et al.*/20, ll. 10-14. The evidence in this proceeding shows that the
15 stipulated ROR is reasonable.

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1 **IV. CONCLUSION**

2 The Joint Parties respectfully request that the Commission disregard ICNU's
3 objections and approve the Revenue Requirement Stipulation as filed, because it is supported
4 by the evidence and results in just and reasonable rates.

5
6 DATED: November 25, 2009

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