

May 11, 2023

VIA E-TARIFF

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: PacifiCorp, Docket Nos. ER23-____
Compliance Filing of PacifiCorp to Docket No. EL22-38

Dear Secretary Bose:

In compliance with the Federal Energy Regulatory Commission (“Commission” or “FERC”), directives in its order dated April 20, 2023,¹ PacifiCorp submits proposed revisions to Attachment H-2 of its Open Access Transmission Tariff (“OATT” or “Tariff”), as discussed further below. As directed by the April 20 Order, if accepted by the Commission, the proposed revisions herein will become effective April 27, 2022.

I. BACKGROUND

On May 23, 2013, the Commission accepted a settlement agreement in Docket No. ER11-3643, which implemented a formula transmission rate for PacifiCorp.² The formula rate includes “Protocols” (i.e., Attachment H-2 of PacifiCorp’s OATT), which PacifiCorp has been following annually in developing and implementing the “Annual Updates.” On April 21, 2022, the Commission issued a Show Cause Order pursuant to Section 206 of the Federal Power Act,³ finding that the Protocols appear to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.⁴

In response to the Show Cause Order, PacifiCorp only challenged two findings. The two challenges were the Show Cause Order’s finding that the Protocols do not: (1) define “Interested Party”; and (2) require PacifiCorp to make a posting of [its Annual Update informational filing] on its website. For the remainder of the findings, PacifiCorp submitted illustrative changes that PacifiCorp proposed to make to comply with the Show Cause Order.

In its April 20 Order, the Commission found that for all of the Show Cause Order findings that PacifiCorp did not dispute, the proposed Tariff revisions to the Protocols are: (1) consistent

¹ *PacifiCorp*, 183 FERC ¶ 61,031 (2023) (“April 20 Order”).

² *PacifiCorp*, 143 FERC ¶ 61,162 at P 5 (2013).

³ 16 U.S.C. § 824e.

⁴ *PacifiCorp*, 179 FERC ¶ 61,053 (2022)(the “Show Cause Order”).

with the standards established in the MISO Protocol Orders and subsequent Commission precedent, and (2) would remedy the associated identified concerns in the Show Cause Order.⁵ Accordingly, the Commission directed PacifiCorp to submit a compliance filing with the proposed Tariff revisions described in its amended response in eTariff format.⁶

With respect to the definition of “Interested Party”, while the April 20 Order acknowledged the Protocols do define “Interested Party”, the Commission found the definition is limited to only those entities listed, and fails to include entities such as consumer advocacy agencies and state attorneys general.⁷ Therefore, PacifiCorp was directed to submit a compliance filing within 30 days that revised the definition of “Interested Party” consistent with the MISO Protocol Orders.⁸

With respect to the posting of its Annual Update informational filings, the April 20 Order found that while the Protocols require PacifiCorp to post its Annual Updates on its OASIS website, which are also filed annually with the Commission as informational filings, the Protocols do not contain a provision that requires PacifiCorp to post the docket number assigned to its informational filing on both PacifiCorp’s website and OASIS within five days of such filing.⁹ Accordingly, the April 20 Order directed PacifiCorp to submit, within 30 days, a compliance filing with proposed Tariff revisions that require PacifiCorp to post the docket number assigned to its informational filing on PacifiCorp’s website and OASIS within five days of such filing.¹⁰

II. PACIFICORP’S COMPLIANCE WITH THE APRIL 20 ORDER

PacifiCorp’s proposed Tariff revisions in this compliance filing include the revisions in its Amended Response that the April 20 Order found to acceptably address the non-disputed Show Cause Order findings. Below, PacifiCorp describes the proposed Tariff revisions to address the definition of “Interested Party” and the posting of the Annual Update information filings.

A. Revisions to the definition of “Interested Party.”

PacifiCorp proposes to modify the definition of “Interested Party”, which is located in the preamble to the Protocols, as follows (deleted language is in strike-through and the new language is underlined):

“For purposes of these Protocols, the term “Interested Party” ~~means~~ includes, but is not exclusive to a transmission customer ~~of PacifiCorp~~ under PacifiCorp’s Tariff, a state utility regulatory commission in a state where PacifiCorp serves retail

⁵ On July 29, 2022, PacifiCorp submitted a “Motion for Leave to file Amended Response and Amended Response of PacifiCorp.” The April 20 Order refers to this filing as PacifiCorp’s “Amended Response” and cited the illustrative Tariff revisions therein as acceptably remedying the identified concerns, for the non-disputed findings, in the Show Cause Order. See April 20 Order at P 16.

⁶ April 20 Order at P 16.

⁷ *Id.* at P 19.

⁸ *Id.*

⁹ *Id.* at P 21.

¹⁰ *Id.*

customers, any entity having standing in a Federal Energy Regulatory Commission (“Commission” or “FERC”) proceeding investigating the Formula Rate (as defined in Section I.1, below), ~~and~~ staff of FERC, consumer advocacy agencies in a state where PacifiCorp serves retail customers, and state attorney[s] general in a state where PacifiCorp serves retail customers.”

As discussed earlier, the Commission directed PacifiCorp to revise the definition of “Interested Party” consistent with the MISO Protocol Orders. Footnote 28 of the April 20 Order cited the language that PacifiCorp should add, “including but not exclusive to customers under the Tariff, state utility regulatory commissions, consumer advocacy agencies, and state attorney[s] general.” PacifiCorp revised its existing definition of “Interested Party” in a good faith attempt to capture the additional language cited in Footnote 28 of the April 20 Order and believes the expanded definition addresses the Commission’s concerns.

B. Posting of Annual Update Informational Filings.

To comply with the April 20 Order, PacifiCorp modified Section I(3)(f) and (g) of its Protocols as follows (deleted language is in strike-through and the new language is underlined):

- f) File such Annual Update with the Commission as an informational filing, under a new docket number annually, on the Publication Date; and
- g) On the Publication Date, notify Interested Parties by email (~~using the last known email addresses provided to the Transmission Provider~~) of the website address where the Annual Update posting is located, along with the Commission docket number assigned to the Annual Update informational filing. The Transmission Provider shall use the email list developed from the most recent Annual Update and any other email addresses of ~~individuals~~ Interested Parties who have requested to be included in the Annual Update distribution list. In addition, notification of the Annual Update, along with the Commission docket number assigned to the Annual Update informational filing, will be posted on the Transmission Provider’s OASIS website and the Transmission Provider’s website within five days of such filing.

PacifiCorp respectfully submits that the proposed revisions address the Commission’s concerns as the revised Protocols require PacifiCorp to post the docket number assigned to the Annual Update informational filing on both PacifiCorp’s website and the OASIS website within five days of such filing.¹¹

PacifiCorp also removed “(using the last known email addresses provided to the Transmission Provider)” because the phrase was already captured by the following sentence in Section I(3)(g) of the Protocols. PacifiCorp also changed “individuals” to “Interested Parties” to reflect the expanded definition proposed herein.

¹¹ PacifiCorp’s website can be found at: <https://www.pacificorp.com/transmission/transmission-services.html>

III. IMPLEMENTATION

If accepted, the proposed revisions will be effective April 27, 2022. PacifiCorp is required to implement its 2023 Annual Update by May 15, 2023. Therefore, the Commission will not have an opportunity to act on this filing until after the 2023 Annual Update has been implemented. However, PacifiCorp will: (1) file the 2023 Annual Update informational filing under a new docket number; (2) provide notice to the updated definition of “Interested Parties” of the informational filing, including the new docket number; and (3) post the docket number of informational filing on its company website and its OASIS website within five days of such filing.

IV. COMMUNICATIONS

All communications regarding this filing should be forwarded to the persons listed below, and PacifiCorp requests that they be placed on the service list in this proceeding, if they have not been already.¹²

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V. CONTENTS OF FILING

PacifiCorp hereby submits a filing package that consists of the following materials:

- This Transmittal Letter;
- Attachment A: A redlined-tariff version showing the changes to PacifiCorp’s transmission formula rate Protocols, as described herein, for filing in eLibrary; and
- Attachment B: A clean-tariff version of PacifiCorp’s revised transmission formula rate Protocols for filing in eTariff and eLibrary.

¹² To the extent necessary, PacifiCorp respectfully requests waiver of Rule 203(b)(3) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.203(b), to permit all of the persons listed to be placed on the official service list for this proceeding.

VI. PROPOSED EFFECTIVE DATE AND REQUEST FOR WAIVER

As noted earlier, the April 20 Order directed PacifiCorp to submit this compliance filing with the proposed Tariff revisions described in its Amended Response in eTariff format, effective April 27, 2022, within 30 days. This Compliance Filing complies with the April 20 Order as it includes all of the Tariff revisions from its Amended Response, as well as the new Tariff revisions described herein. PacifiCorp requests the Commission accept the Tariff revisions effective April 27, 2022.

In addition, to the extent necessary, PacifiCorp requests waiver of any other requirements of Part 35 of the Commission's regulations not satisfied by this filing.

VII. SERVICE

PacifiCorp has served a copy of this filing electronically, including attachments, upon to all PacifiCorp customers taking transmission and interconnection service under PacifiCorp's OATT, as well as the state utility regulatory commissions in the jurisdictions where PacifiCorp operates: California Public Utilities Commission, Idaho Public Utilities Commission, Oregon Public Utility Commission, Utah Public Service Commission, Washington Utilities and Transportation Commission, and Wyoming Public Service Commission. Pursuant to Section 35.2(e) of the Commission's regulations,¹³ a copy of this filing will be available for public inspection at PacifiCorp's office: 825 N.E. Multnomah St., Portland, OR 97232 and 1407 W North Temple, Salt Lake City, UT 84116. The filing will also be posted electronically on PacifiCorp's OASIS website: <http://www.oasis.oati.com/ppw/index.html>

VIII. CONCLUSION

PacifiCorp respectfully requests the Commission accept the proposed Tariff revisions attached hereto for filing and to the extent necessary, grant waiver to allow acceptance to occur as requested herein.

Respectfully submitted,



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¹³ 18 C.F.R. § 35.2(e).

**Attachment A:
A redlined-tariff version showing the changes to PacifiCorp's transmission formula rate
Protocols**

ATTACHMENT H-2
Formula Rate Implementation Protocols
Projections are for Rate Years – June-May
True-Ups are for Calendar Years – January-December

The Transmission Provider’s formula transmission rates, including those in Schedules 1, 7 and 8 of the Tariff (but excluding rates or charges in any other Schedule of the Tariff), shall be implemented in accordance with the Formula Rate Implementation Protocols (“Protocols”) as set forth below.

For purposes of these Protocols, the term “Interested Party” ~~means~~ includes, but is not exclusive to a transmission customer of PacifiCorp under PacifiCorp’s Tariff, a state utility regulatory commission in a state where PacifiCorp serves retail customers, any entity having standing in a Federal Energy Regulatory Commission (“Commission” or “FERC”) proceeding investigating the Formula Rate (as defined in Section I.1, below), ~~and~~ staff of FERC, consumer advocacy agencies in a state where PacifiCorp serves retail customers, and state attorney[s] general in a state where PacifiCorp serves retail customers.

I. Annual Updates

1. The formula rate template (“Formula”) contained in Attachment H-1, which includes Schedule 1 – Scheduling System Control and Dispatch Service as Appendix B to Attachment H-1, and these Protocols together comprise the Transmission Provider’s filed rate (collectively, the “Formula Rate”) for Transmission Service under the Tariff or transmission agreements incorporating Tariff rates. The Transmission Provider will follow the instructions specified in the Formula Rate to annually calculate (project

and subsequently true up as applicable) its Annual Transmission Revenue Requirement (“ATRR”) and long-term firm loads to develop rates for Network Integration Transmission Service, Point-to-Point Transmission Service, and ancillary service Schedule 1 – Scheduling System Control and Dispatch Service, for posting by the Transmission Provider (hereinafter the projection and true-up process is referred to as the “Annual Update”).

2. The Formula Rate shall be applicable to service on and after June 1 of a given calendar year through May 31 of the subsequent calendar year (“Rate Year”), subject to review, challenge, and refunds or surcharges with interest, as provided herein. The commencement date of the Transmission Provider’s Formula Rate in the first Rate Year shall be the effective date established by the Commission.
3. Each calendar year, the Transmission Provider shall:
 - a) By May 15 of the current year, calculate the projected ATRR, and transmission rates for the next Rate Year (“Projection”) and Schedule 1 rate for the next Rate Year in accordance with the Formula Rate. The Formula Rate specifies in detail the manner in which the immediately preceding calendar year FERC Form No. 1 data and actual data from the Transmission Provider’ books and records shall be used as inputs to the Formula except that: (A) limited projections of current calendar year transmission plant will be forecasted for the applicable Rate Year in the Projection; and (B) limited projections of current calendar year long-term firm loads identified in Attachment 9A to the Formula Rate (columns e, f, g and j) will be calculated and adjusted as appropriate for the applicable Rate Year in the

Projection in accordance with Attachment 5;

b) By May 15 of the current year, calculate the true-up for the Projection for the preceding calendar year in accordance with the Formula Rate (“True-Up”). The True-Up shall use the actual data for such preceding calendar year to calculate the actual charges for that calendar year. The Schedule 1 rate shall not be subject to the True-Up. As part of the True-Up, the Transmission Provider shall calculate refunds or surcharges for each transmission customer identified in Attachment 9B taking service pursuant to the Formula Rate, as follows:

i) At the time of the Annual Update, the Transmission Provider shall recalculate the bills for transmission service of each transmission customer identified in Attachment 9B taking service pursuant to the Formula Rate during the preceding calendar year, based on the actual ATRR and long-term firm loads for that calendar year.

ii) The Transmission Provider shall refund or surcharge, as applicable, to each transmission customer identified in Attachment 9B taking service pursuant to the Formula Rate during the preceding calendar year, the difference between: (A) the amount(s) billed to the transmission customer during such preceding calendar year, and (B) the recalculated bill using PacifiCorp’s actual ATRR and long-term firm loads for such preceding calendar year and the transmission customer’s actual billing loads for such preceding calendar year. The refund or

surcharge shall include interest applied through the date when the refund is paid or the invoice is due. The Schedule 1 rate shall not be subject to a refund or surcharge.

- c) Include with the Annual Update an identification and explanation of each ~~material~~ accounting change (“~~Material~~ Accounting Change”). ~~An~~ Material Accounting Change is: (i) any change in the Transmission Provider’s accounting policies, practices or procedures (including changes resulting from revisions to FERC’s Uniform System of Accounts and/or FERC Form No. 1 reporting requirements and inter-company cost allocation methodologies) from those in effect during the calendar year upon which the most recent actual ATRR was based and that, ~~in the Transmission Provider’s reasonable judgment, could impact~~ affects inputs to the Formula Rate, including impact to the ATRR or load divisor, or the resulting charges billed under the Formula Rate; and (ii) any change in the classification of any transmission facility that has been directly assigned and the dollar value of the change that the Transmission Provider has made in the applicable Projection or True-Up; ~~and~~
- d) Include with the Annual Update an identification of any reorganization or merger transaction during the previous year that affects inputs to the Formula Rate, including impact to the ATRR or load divisor, or the resulting charges billed under the Formula Rate, and an explanation of the effect of the accounting for such transaction(s) on inputs to the Annual True-Up; and
- ~~d~~e) Post such Annual Update on May 15, or if May 15 is a Saturday, Sunday

or Federal holiday, the first business day thereafter, as well as a populated Formula in fully functional spreadsheets showing the calculation of such Annual Update with documentation supporting such calculation, which includes, but is not limited to, Appendices A and B and Attachments 1 through 17 to the Formula and information supporting the Projection as described in Section I.3(a), above, which information shall include a narrative, and worksheets where appropriate, explaining the source and derivation of any data input to the Formula that is not drawn directly from the Transmission Provider's FERC Form No. 1, as well as the following information for all transmission facilities included in the expected transmission plant additions: (i) expected date of completion; (ii) percent completion status as of the date of the Annual Update; (iii) a one-line diagram of facilities exceeding \$5 million in cost; (iv) the estimated total installed cost of the facility; (v) the reason for the facility addition; and (vi) without identifying the transmission customer to the extent such customer information is not public information, upgrade costs paid by a generator or paid by a transmission customer directly to the Transmission Provider, in an accessible location on the Transmission Provider's OASIS website (the date of such posting is referred to herein as the "Publication Date");

e) ~~f)~~ File such Annual Update with the Commission as an informational filing, under a new docket number annually, on the Publication Date; and

~~f) g)~~ On the Publication Date, notify Interested Parties by email (~~using the last known email addresses provided to the Transmission Provider~~) of the website address where the Annual Update posting is ~~located~~, along with the Commission docket

number assigned to the Annual Update informational filing. The Transmission Provider shall use the email list developed from the most recent Annual Update and any other email addresses of ~~individuals~~ Interested Parties who have requested to be included in the Annual Update distribution list. In addition, notification of the Annual Update, along with the Commission docket number assigned to the Annual Update informational filing, will be posted on the Transmission Provider's OASIS website and the Transmission Provider's website within five days of such filing.

4. Joint Informational Meeting:

In such years where the Transmission Provider is recovering through its Formula Rate the costs of a regional or inter-regional transmission project that has been included in the Regional Transmission Plan pursuant to the regional transmission planning process described in Attachment K, the Transmission Provider will endeavor to hold a joint meeting with other Transmission Owner(s) who have been allocated costs for the same regional or inter-regional transmission project through the same regional transmission planning process and who also use transmission formula rates. The purpose of the joint meeting will be to enable -Interested Parties to understand how the Transmission Provider and such other Transmission Owner(s) are recovering the costs of such regional or inter-regional transmission project(s) through their respective transmission formula rates. the Transmission Provider will endeavor to hold such joint meeting(s) during the third calendar quarter of the year. Notice of the joint meeting(s), including the time, date, and location, shall be posted on the Transmission Provider's OASIS website and distributed to the email exploder list no less than seven (7) days prior to such meetings,

as well as information for providing remote access to such joint meetings.

45. A True-Up for a preceding calendar year shall:

- a) Be based upon the Transmission Provider's FERC Form No. 1 for that calendar year, and, to the extent specified in the Formula Rate, upon the books and records of the Transmission Provider consistent with the Commission's accounting policies and practices; and
- b) Include a variance analysis of the Formula Rate as compared with the projected Formula Rate components contained in the Annual Update establishing the rates for the Rate Year under review, which shows the percentage change of each input to the Formula Rate compared to the preceding Rate Year. The Transmission Provider shall address those changes which, in the Transmission Provider's reasonable judgment, are significant during the Customer Meeting (see Section II.1 below).

56. A change to the Formula Rate inputs related to unamortized abandoned plant, construction work in progress (which is currently set to zero), return on equity incentives, extraordinary property losses, return on equity, depreciation rates for each regulatory jurisdiction that are used to calculate the composite rates applied in the Formula Rate, or Post Employment Benefits Other than Pensions may not be made absent a filing with the Commission pursuant to Federal Power Act ("FPA") Sections 205 or 206. PacifiCorp shall have the right to propose a change to only the following items through a single issue filing under Section 205 of the FPA: (i) cash working capital as provided for in the settlement agreement filed and accepted in ER11-3643,

and (ii) amortization rates, and depreciation rates. To the extent any State depreciation rate stated on Attachment 8 of the Formula Rate is modified by any State, PacifiCorp must make a single issue filing under Section 205 of the FPA to incorporate such modification to Attachment 8, to become effective on the same date the modified State depreciation rate became effective.

II. Annual Review Procedures

Each Annual Update shall be subject to the following review procedures (“Annual Review Procedures”). If any of the dates provided for herein fall on a Saturday, Sunday or Federal holiday, then the due date shall be the first business day thereafter:

1. Each year, with at least thirty (30) calendar days written notice, the Transmission Provider shall convene at least one meeting, which shall include at the Transmission Provider’s option either video conferencing or webinar/internet conferencing, among Interested Parties (“Customer Meeting”) during which the Transmission Provider shall present details about its Annual Update, including an explanation of those changes identified in the variance analysis (see Section I.4.b). The Customer Meeting shall provide Interested Parties the chance to seek information and clarifications from the Transmission Provider about the Annual Update. The first Customer Meeting of a Rate Year shall take place between June 23 and July 10 at a date and time convenient for a majority of the parties and posted on the Transmission Provider’s internet website. The Transmission Provider shall also schedule subsequent Customer Meetings as appropriate (“Subsequent Meetings”). The date and time of such Subsequent Meetings shall be posted on the Transmission Provider’s internet website and shall include at the Transmission Provider’s option either video

conferencing or webinar/internet conferencing.

2. Immediately following the Publication Date, Interested Parties may submit requests for information supporting the Annual Update. Interested Parties will have one-hundred and eighty (180) calendar days after the Publication Date to serve reasonable information requests to the Transmission Provider (“Information Request Period”). Such information requests shall be limited to that which is necessary to determine if the Transmission Provider has properly calculated the Formula Rate for the Annual Update under review, whether the inputs to the True-Up are correct, prudent and otherwise appropriate costs and revenue credits, and whether there have been any ~~Material~~ Accounting Changes that affect the Formula Rate calculations.
3. The Transmission Provider shall make a good faith effort to respond to information requests pertaining to the Annual Update within ten (10) business days of receipt of such requests. Such data responses shall be served on all Interested Parties identifying themselves to the Transmission Provider (as set forth in Section I.3(f)). Information requests received after 4 p.m. Pacific Prevailing Time shall be considered received the next business day. In the event the Transmission Provider believes it cannot respond within the ten (10) business day timeframe, it shall notify the requesting party and shall provide an estimate of when the Transmission Provider will provide the requested information.
4. For any information requests under Section II.2 above submitted during the last thirty (30) days of the Information Request Period to which the Transmission Provider fails to respond within ten (10) business days, the Information Request Period shall be

extended equal to the greatest number of days beyond the ten (10) business day timeframe that it takes the Transmission Provider to provide the requested information in response to a single information request or set of information requests. In addition, for other good cause, including actions pursuant to Section II.6 below, the Information Request Period may be extended with the written consent of the Transmission Provider, with such consent not to be unreasonably withheld.

5. The Transmission Provider shall make available in a central electronic location all information requests received and all responses to such requests. Each information request received by the Transmission Provider shall become available in the central electronic location within one business day of receipt of such request. Each response by the Transmission Provider shall become available in the central electronic location within one business day of distribution of such response to the party that submitted the information request. The Transmission Provider shall also maintain and post in the same central electronic location a list of Interested Parties identifying themselves to the Transmission Provider.
6. To the extent the Transmission Provider and any Interested Party(ies) are unable to resolve disputes related to information requests submitted during the Information Request Period in accordance with these Protocols, the Transmission Provider or any Interested Party may petition FERC to appoint an Administrative Law Judge as a discovery master after reasonable attempts to resolve the disputes have been made by the Transmission Provider and any Interested Parties. The discovery master shall have the authority to issue binding orders to resolve discovery disputes and compel the production of discovery, as appropriate, in accordance with the Protocols and

consistent with FERC's discovery rules.

7. At any time throughout the Information Request Period (as such period may be extended pursuant to Section II.4 above) and up to thirty (30) calendar days after the later of: (i) the close of the Information Request Period, or (ii) receipt of all responses to information requests submitted during the Information Request Period, any Interested Party may review the calculations ("Review Period") and notify the Transmission Provider in writing of any specific challenges to the application of the Formula Rate ("Preliminary Challenge"). Notice of such Preliminary Challenges shall be promptly posted (at the same location as the Annual Update) by the Transmission Provider.
8. Challenges to the Formula Rate itself shall not be considered a Preliminary Challenge for purposes of these Annual Review Procedures. Modifications to the Formula Rate itself can only be made pursuant to Sections 205 and 206 of the Federal Power Act, as set out in Article V below.

III. Resolution of Annual Update Challenges

1. If the Transmission Provider and any Interested Party have not resolved a Preliminary Challenge to an Annual Update within sixty (60) calendar days after written notification of a Preliminary Challenge, senior management of the Interested Parties may attempt to resolve any outstanding issues ("Senior Management Review"). If the Transmission Provider and any Interested Party's (or Parties') senior management are unable to resolve all issues raised in such party's Preliminary Challenge within thirty (30) calendar days after the Senior Management Review process begins, the

Interested Party or Parties may, at any time thereafter, file a formal challenge with the Commission for a period up to three-hundred sixty five (365) calendar days after the Customer Meeting (“Formal Challenge”). An Interested Party may not file a Formal Challenge thereafter. However, any Party may at any time within the period specified above, with or without prior Senior Management Review or submission of a Preliminary Challenge, file a Formal Challenge with the Commission regarding the Formula Rate. For avoidance of doubt and as provided in Article V hereof, nothing in this section is intended to limit the rights of any Interested Party to file a complaint under the FPA outside the Formal Challenge procedures provided by these Protocols.

2. The Transmission Provider shall promptly post notice of resolution of a Preliminary Challenge (at the same location as the notice of Preliminary Challenges) and shall notify all Interested Parties of such resolution, consistent with the procedures set forth in Section II.5, above.
3. Any and all information produced pursuant to these Protocols may be included in any proceeding concerning the PacifiCorp Formula Rate initiated at FERC pursuant to the FPA, including, but not limited to, a Formal Challenge. Information produced pursuant to these Protocols designated as confidential information and not otherwise publicly available shall be treated as confidential in any such proceeding referenced herein; provided that confidential treatment shall be subject to a later determination by the presiding authority that the material is, in whole or in part, not entitled to confidential treatment.
4. Any Formal Challenge shall be served on the Transmission Provider by electronic

service on the date of such filing.

5. There shall be no need for an Interested Party to make a separate Formal Challenge with respect to any action –initiated by the Commission *sua sponte*, regarding an Annual Update in order to participate in any resulting Commission proceeding.
6. Failure to make a Preliminary Challenge or Formal Challenge as to any Annual Update shall not act as a bar to a Preliminary Challenge or Formal Challenge related to any other Annual Update. However, no Preliminary Challenge to an Annual Update shall be permitted after the deadline for written notification of Preliminary Challenges, described in Section II.6.
7. Failure to make a Preliminary Challenge or Formal Challenge with respect to an ~~Material~~-Accounting Change as to any Annual Update shall not act as a bar to a Preliminary Challenge or Formal Challenge related to that ~~Material~~-Accounting Change in any subsequent Annual Update.

IV. Adjustments to Charges to Reflect Correction of Errors and Resolution of Challenges

For purposes of this Article IV governing mid-Rate Year adjustments of the Annual Update, the following definition of “Material Correction” triggering such adjustment shall apply: adjustment shall be required if correcting the error or otherwise accounting for the change impacts a rate produced by the Formula Rate by +/- two and a half (+/- 2.5) percent or +/- \$0.50 kw-yr, whichever is lower. Errors below this materiality threshold will be deferred to the True-Up.

1. If the Transmission Provider identifies an error in the Projection or the FERC Form

No. 1 data or data based on the Transmission Provider's books and records that is used as an input to the Projection, or the Transmission Provider is required by applicable law or a court or regulatory body to correct an error, and such error constitutes a Material Correction, as defined above, the Transmission Provider shall correct the error by recalculating the Annual Update in good faith within two (2) calendar months (or such period specifically directed by applicable law, court or regulatory body) and without regard to whether the correction increases or decreases the Transmission Provider's revenue requirements. All identified errors shall reset the rights of Interested Parties to make information requests and challenges including the deadlines set out in Articles II and III, above, as to the specific errors and related corrective revisions. Invoices sent prior to the correction of the error shall be corrected as part of the True-Up. Notwithstanding the foregoing provisions, inaccuracies in the limited projections provided for in Section I.3.a(A) and (B) are not errors subject to the procedures set forth in this Article IV.

2. Any correction(s) or modification(s) to the Formula Rate True-Up that is (are) determined through the Annual Review Procedures, including resolution(s) of Preliminary Challenges and Formal Challenges, shall be refunded or surcharged the earlier of (i) the next monthly billing cycle after the conclusion of the time to file a Formal Challenge or (ii) the next monthly billing cycle after it is clear that there will be no Formal Challenges. Should a Commission order refunds or surcharges, such refunds or surcharges will be made pursuant to the Commission's order.
3. If the Transmission Provider files any corrections or modifications to its FERC Form No. 1 for any prior year after the window for submitting a Formal Challenge to an

Annual Update has expired, and such corrections or modifications affect the charges produced by the True-Up for prior Rate Year(s), the Transmission Provider shall correct the error by recalculating the True-Up for the affected Rate Year(s) in good faith within two (2) calendar months (or such period specifically directed by applicable law, court or regulatory body) and without regard to whether the correction increases or decreases the Transmission Provider's revenue requirements for the affected Rate Year(s). All identified errors shall reset the rights of Interested Parties and the deadlines set out in Articles II and III, above, only as to such errors and the associated corrective revisions.

4. Except as otherwise specified pursuant to a Commission order, all refunds or surcharges shall be determined with interest calculated in accordance with 18 C.F.R. § 35.19a.

V. Party's Rights and Burden of Proof

1. Nothing in these Protocols affects any rights the Transmission Provider, FERC, or any Interested Party may have under the FPA, including the right of the Transmission Provider to file a change in rates under Section 205 of the FPA or the right of an Interested Party to file a complaint that is not a Formal Challenge at any time under Section 206 of the FPA or other Commission regulation, or for an Interested Party to participate in any Commission proceeding relating to the Formula Rate. Nothing in these Protocols affects or modifies in any manner the procedural and substantive requirements, including requirements relating to the burden of proof, that are otherwise applicable under Commission precedent, regulations, and statute, in such a proceeding. The provisions of these Protocols addressing review and challenge of

- the Annual Update shall not be construed as limiting the Transmission Provider's, FERC's, or any Interested Party's rights under any applicable provision of the FPA.
2. Failure to have made a Preliminary Challenge or Formal Challenge pursuant to these Protocols shall neither, in any manner, be asserted against a complainant in a proceeding instituted under Section 206 of the FPA nor prejudice or otherwise limit the complainant's right to relief that may be granted pursuant to Section 206 of the Federal Power Act.
 3. Nothing herein is intended to alter the established burden(s) of going forward or burden(s) of proof as applied by the FERC at the time of any proceeding. Notwithstanding and without limiting the foregoing, in any proceeding ordered by FERC in response to a Formal Challenge raised under these Protocols or a proceeding initiated *sua sponte* by the Commission, the Transmission Provider shall have the ultimate burden of proof to establish that: (i) it reasonably applied the Formula Rate; (ii) it reasonably calculated the challenged Annual Update pursuant to the Formula Rate; and (iii) it reasonably adopted and applied any ~~Material~~ Accounting Change.

Attachment B:
A clean-tariff version of PacifiCorp's revised transmission formula rate Protocols

ATTACHMENT H-2
Formula Rate Implementation Protocols
Projections are for Rate Years – June-May
True-Ups are for Calendar Years – January-December

The Transmission Provider’s formula transmission rates, including those in Schedules 1, 7 and 8 of the Tariff (but excluding rates or charges in any other Schedule of the Tariff), shall be implemented in accordance with the Formula Rate Implementation Protocols (“Protocols”) as set forth below.

For purposes of these Protocols, the term “Interested Party” includes, but is not exclusive to a transmission customer under PacifiCorp’s Tariff, a state utility regulatory commission in a state where PacifiCorp serves retail customers, any entity having standing in a Federal Energy Regulatory Commission (“Commission” or “FERC”) proceeding investigating the Formula Rate (as defined in Section I.1, below), staff of FERC, consumer advocacy agencies in a state where PacifiCorp serves retail customers, and state attorney[s] general in a state where PacifiCorp serves retail customers.

I. Annual Updates

1. The formula rate template (“Formula”) contained in Attachment H-1, which includes Schedule 1 – Scheduling System Control and Dispatch Service as Appendix B to Attachment H-1, and these Protocols together comprise the Transmission Provider’s filed rate (collectively, the “Formula Rate”) for Transmission Service under the Tariff or transmission agreements incorporating Tariff rates. The Transmission Provider will follow the instructions specified in the Formula Rate to annually calculate (project and subsequently true up as applicable) its Annual Transmission Revenue Requirement (“ATRR”) and long-term firm loads to develop rates for Network

Integration Transmission Service, Point-to-Point Transmission Service, and ancillary service Schedule 1 – Scheduling System Control and Dispatch Service, for posting by the Transmission Provider (hereinafter the projection and true-up process is referred to as the “Annual Update”).

2. The Formula Rate shall be applicable to service on and after June 1 of a given calendar year through May 31 of the subsequent calendar year (“Rate Year”), subject to review, challenge, and refunds or surcharges with interest, as provided herein. The commencement date of the Transmission Provider’s Formula Rate in the first Rate Year shall be the effective date established by the Commission.
3. Each calendar year, the Transmission Provider shall:
 - a) By May 15 of the current year, calculate the projected ATRR, and transmission rates for the next Rate Year (“Projection”) and Schedule 1 rate for the next Rate Year in accordance with the Formula Rate. The Formula Rate specifies in detail the manner in which the immediately preceding calendar year FERC Form No. 1 data and actual data from the Transmission Provider’ books and records shall be used as inputs to the Formula except that: (A) limited projections of current calendar year transmission plant will be forecasted for the applicable Rate Year in the Projection; and (B) limited projections of current calendar year long-term firm loads identified in Attachment 9A to the Formula Rate (columns e, f, g and j) will be calculated and adjusted as appropriate for the applicable Rate Year in the Projection in accordance with Attachment 5;
 - b) By May 15 of the current year, calculate the true-up for the Projection for the

preceding calendar year in accordance with the Formula Rate (“True-Up”). The True-Up shall use the actual data for such preceding calendar year to calculate the actual charges for that calendar year. The Schedule 1 rate shall not be subject to the True-Up. As part of the True-Up, the Transmission Provider shall calculate refunds or surcharges for each transmission customer identified in Attachment 9B taking service pursuant to the Formula Rate, as follows:

- i) At the time of the Annual Update, the Transmission Provider shall recalculate the bills for transmission service of each transmission customer identified in Attachment 9B taking service pursuant to the Formula Rate during the preceding calendar year, based on the actual ATRR and long-term firm loads for that calendar year.
- ii) The Transmission Provider shall refund or surcharge, as applicable, to each transmission customer identified in Attachment 9B taking service pursuant to the Formula Rate during the preceding calendar year, the difference between: (A) the amount(s) billed to the transmission customer during such preceding calendar year, and (B) the recalculated bill using PacifiCorp’s actual ATRR and long-term firm loads for such preceding calendar year and the transmission customer’s actual billing loads for such preceding calendar year. The refund or surcharge shall include interest applied through the date when the refund is paid or the invoice is due. The Schedule 1 rate shall not be subject to a refund or surcharge.

- c) Include with the Annual Update an identification and explanation of each accounting change (“Accounting Change”). An Accounting Change is: (i) any change in the Transmission Provider’s accounting policies, practices or procedures (including changes resulting from revisions to FERC’s Uniform System of Accounts and/or FERC Form No. 1 reporting requirements and inter-company cost allocation methodologies) from those in effect during the calendar year upon which the most recent actual ATRR was based and that affects inputs to the Formula Rate, including impact to the ATRR or load divisor, or the resulting charges billed under the Formula Rate; and (ii) any change in the classification of any transmission facility that has been directly assigned and the dollar value of the change that the Transmission Provider has made in the applicable Projection or True-Up;
- d) Include with the Annual Update an identification of any reorganization or merger transaction during the previous year that affects inputs to the Formula Rate, including impact to the ATRR or load divisor, or the resulting charges billed under the Formula Rate, and an explanation of the effect of the accounting for such transaction(s) on inputs to the Annual True-Up; and
- e) Post such Annual Update on May 15, or if May 15 is a Saturday, Sunday or Federal holiday, the first business day thereafter, as well as a populated Formula in fully functional spreadsheets showing the calculation of such Annual Update with documentation supporting such calculation, which includes, but is not limited to, Appendices A and B and Attachments 1 through 17 to the Formula and information supporting the Projection as described in Section I.3(a), above,

which information shall include a narrative, and worksheets where appropriate, explaining the source and derivation of any data input to the Formula that is not drawn directly from the Transmission Provider's FERC Form No. 1, as well as the following information for all transmission facilities included in the expected transmission plant additions: (i) expected date of completion; (ii) percent completion status as of the date of the Annual Update; (iii) a one-line diagram of facilities exceeding \$5 million in cost; (iv) the estimated total installed cost of the facility; (v) the reason for the facility addition; and (vi) without identifying the transmission customer to the extent such customer information is not public information, upgrade costs paid by a generator or paid by a transmission customer directly to the Transmission Provider, in an accessible location on the Transmission Provider's OASIS website (the date of such posting is referred to herein as the "Publication Date");

- f) File such Annual Update with the Commission as an informational filing, under a new docket number annually, on the Publication Date; and
- g) On the Publication Date, notify Interested Parties by email of the website address where the Annual Update posting is located, along with the Commission docket number assigned to the Annual Update informational filing. The Transmission Provider shall use the email list developed from the most recent Annual Update and any other email addresses of Interested Parties who have requested to be included in the Annual Update distribution list. In addition, notification of the Annual Update, along with the Commission docket number assigned to the Annual Update informational filing, will be posted on the Transmission

Provider's OASIS website and the Transmission Provider's website within five days of such filing.

4. Joint Informational Meeting:

In such years where the Transmission Provider is recovering through its Formula Rate the costs of a regional or inter-regional transmission project that has been included in the Regional Transmission Plan pursuant to the regional transmission planning process described in Attachment K, the Transmission Provider will endeavor to hold a joint meeting with other Transmission Owner(s) who have been allocated costs for the same regional or inter-regional transmission project through the same regional transmission planning process and who also use transmission formula rates. The purpose of the joint meeting will be to enable Interested Parties to understand how the Transmission Provider and such other Transmission Owner(s) are recovering the costs of such regional or inter-regional transmission project(s) through their respective transmission formula rates. the Transmission Provider will endeavor to hold such joint meeting(s) during the third calendar quarter of the year. Notice of the joint meeting(s), including the time, date, and location, shall be posted on the Transmission Provider's OASIS website and distributed to the email exploder list no less than seven (7) days prior to such meetings, as well as information for providing remote access to such joint meetings.

5. A True-Up for a preceding calendar year shall:

- a) Be based upon the Transmission Provider's FERC Form No. 1 for that calendar year, and, to the extent specified in the Formula Rate, upon the books and records of the Transmission Provider consistent with the Commission's accounting

policies and practices; and

- b) Include a variance analysis of the Formula Rate as compared with the projected Formula Rate components contained in the Annual Update establishing the rates for the Rate Year under review, which shows the percentage change of each input to the Formula Rate compared to the preceding Rate Year. The Transmission Provider shall address those changes which, in the Transmission Provider's reasonable judgment, are significant during the Customer Meeting (see Section II.1 below).
6. A change to the Formula Rate inputs related to unamortized abandoned plant, construction work in progress (which is currently set to zero), return on equity incentives, extraordinary property losses, return on equity, depreciation rates for each regulatory jurisdiction that are used to calculate the composite rates applied in the Formula Rate, or Post Employment Benefits Other than Pensions may not be made absent a filing with the Commission pursuant to Federal Power Act ("FPA") Sections 205 or 206. PacifiCorp shall have the right to propose a change to only the following items through a single issue filing under Section 205 of the FPA: (i) cash working capital as provided for in the settlement agreement filed and accepted in ER11-3643, and (ii) amortization rates, and depreciation rates. To the extent any State depreciation rate stated on Attachment 8 of the Formula Rate is modified by any State, PacifiCorp must make a single issue filing under Section 205 of the FPA to incorporate such modification to Attachment 8, to become effective on the same date the modified State depreciation rate became effective.

II. Annual Review Procedures

Each Annual Update shall be subject to the following review procedures (“Annual Review Procedures”). If any of the dates provided for herein fall on a Saturday, Sunday or Federal holiday, then the due date shall be the first business day thereafter:

1. Each year, with at least thirty (30) calendar days written notice, the Transmission Provider shall convene at least one meeting, which shall include at the Transmission Provider’s option either video conferencing or webinar/internet conferencing, among Interested Parties (“Customer Meeting”) during which the Transmission Provider shall present details about its Annual Update, including an explanation of those changes identified in the variance analysis (see Section I.4.b). The Customer Meeting shall provide Interested Parties the chance to seek information and clarifications from the Transmission Provider about the Annual Update. The first Customer Meeting of a Rate Year shall take place between June 23 and July 10 at a date and time convenient for a majority of the parties and posted on the Transmission Provider’s internet website. The Transmission Provider shall also schedule subsequent Customer Meetings as appropriate (“Subsequent Meetings”). The date and time of such Subsequent Meetings shall be posted on the Transmission Provider’s internet website and shall include at the Transmission Provider’s option either video conferencing or webinar/internet conferencing.
2. Immediately following the Publication Date, Interested Parties may submit requests for information supporting the Annual Update. Interested Parties will have one-hundred and eighty (180) calendar days after the Publication Date to serve reasonable information requests to the Transmission Provider (“Information Request Period”).

Such information requests shall be limited to that which is necessary to determine if the Transmission Provider has properly calculated the Formula Rate for the Annual Update under review, whether the inputs to the True-Up are correct, prudent and otherwise appropriate costs and revenue credits, and whether there have been any Accounting Changes that affect the Formula Rate calculations.

3. The Transmission Provider shall make a good faith effort to respond to information requests pertaining to the Annual Update within ten (10) business days of receipt of such requests. Such data responses shall be served on all Interested Parties identifying themselves to the Transmission Provider (as set forth in Section I.3(f)). Information requests received after 4 p.m. Pacific Prevailing Time shall be considered received the next business day. In the event the Transmission Provider believes it cannot respond within the ten (10) business day timeframe, it shall notify the requesting party and shall provide an estimate of when the Transmission Provider will provide the requested information.
4. For any information requests under Section II.2 above submitted during the last thirty (30) days of the Information Request Period to which the Transmission Provider fails to respond within ten (10) business days, the Information Request Period shall be extended equal to the greatest number of days beyond the ten (10) business day timeframe that it takes the Transmission Provider to provide the requested information in response to a single information request or set of information requests. In addition, for other good cause, including actions pursuant to Section II.6 below, the Information Request Period may be extended with the written consent of the Transmission Provider, with such consent not to be unreasonably withheld.

5. The Transmission Provider shall make available in a central electronic location all information requests received and all responses to such requests. Each information request received by the Transmission Provider shall become available in the central electronic location within one business day of receipt of such request. Each response by the Transmission Provider shall become available in the central electronic location within one business day of distribution of such response to the party that submitted the information request. The Transmission Provider shall also maintain and post in the same central electronic location a list of Interested Parties identifying themselves to the Transmission Provider.
6. To the extent the Transmission Provider and any Interested Party(ies) are unable to resolve disputes related to information requests submitted during the Information Request Period in accordance with these Protocols, the Transmission Provider or any Interested Party may petition FERC to appoint an Administrative Law Judge as a discovery master after reasonable attempts to resolve the disputes have been made by the Transmission Provider and any Interested Parties. The discovery master shall have the authority to issue binding orders to resolve discovery disputes and compel the production of discovery, as appropriate, in accordance with the Protocols and consistent with FERC's discovery rules.
7. At any time throughout the Information Request Period (as such period may be extended pursuant to Section II.4 above) and up to thirty (30) calendar days after the later of: (i) the close of the Information Request Period, or (ii) receipt of all responses to information requests submitted during the Information Request Period , any Interested Party may review the calculations ("Review Period") and notify the

Transmission Provider in writing of any specific challenges to the application of the Formula Rate (“Preliminary Challenge”). Notice of such Preliminary Challenges shall be promptly posted (at the same location as the Annual Update) by the Transmission Provider.

8. Challenges to the Formula Rate itself shall not be considered a Preliminary Challenge for purposes of these Annual Review Procedures. Modifications to the Formula Rate itself can only be made pursuant to Sections 205 and 206 of the Federal Power Act, as set out in Article V below.

III. Resolution of Annual Update Challenges

1. If the Transmission Provider and any Interested Party have not resolved a Preliminary Challenge to an Annual Update within sixty (60) calendar days after written notification of a Preliminary Challenge, senior management of the Interested Parties may attempt to resolve any outstanding issues (“Senior Management Review”). If the Transmission Provider and any Interested Party’s (or Parties’) senior management are unable to resolve all issues raised in such party’s Preliminary Challenge within thirty (30) calendar days after the Senior Management Review process begins, the Interested Party or Parties may, at any time thereafter, file a formal challenge with the Commission for a period up to three-hundred sixty five (365) calendar days after the Customer Meeting (“Formal Challenge”). An Interested Party may not file a Formal Challenge thereafter. However, any Party may at any time within the period specified above, with or without prior Senior Management Review or submission of a Preliminary Challenge, file a Formal Challenge with the Commission regarding the Formula Rate. For avoidance of doubt and as provided in Article V hereof, nothing

- in this section is intended to limit the rights of any Interested Party to file a complaint under the FPA outside the Formal Challenge procedures provided by these Protocols.
2. The Transmission Provider shall promptly post notice of resolution of a Preliminary Challenge (at the same location as the notice of Preliminary Challenges) and shall notify all Interested Parties of such resolution, consistent with the procedures set forth in Section II.5, above.
 3. Any and all information produced pursuant to these Protocols may be included in any proceeding concerning the PacifiCorp Formula Rate initiated at FERC pursuant to the FPA, including, but not limited to, a Formal Challenge. Information produced pursuant to these Protocols designated as confidential information and not otherwise publicly available shall be treated as confidential in any such proceeding referenced herein; provided that confidential treatment shall be subject to a later determination by the presiding authority that the material is, in whole or in part, not entitled to confidential treatment.
 4. Any Formal Challenge shall be served on the Transmission Provider by electronic service on the date of such filing.
 5. There shall be no need for an Interested Party to make a separate Formal Challenge with respect to any action initiated by the Commission *sua sponte*, regarding an Annual Update in order to participate in any resulting Commission proceeding.
 6. Failure to make a Preliminary Challenge or Formal Challenge as to any Annual Update shall not act as a bar to a Preliminary Challenge or Formal Challenge related

to any other Annual Update. However, no Preliminary Challenge to an Annual Update shall be permitted after the deadline for written notification of Preliminary Challenges, described in Section II.6.

7. Failure to make a Preliminary Challenge or Formal Challenge with respect to an Accounting Change as to any Annual Update shall not act as a bar to a Preliminary Challenge or Formal Challenge related to that Accounting Change in any subsequent Annual Update.

IV. Adjustments to Charges to Reflect Correction of Errors and Resolution of Challenges

For purposes of this Article IV governing mid-Rate Year adjustments of the Annual Update, the following definition of “Material Correction” triggering such adjustment shall apply: adjustment shall be required if correcting the error or otherwise accounting for the change impacts a rate produced by the Formula Rate by +/- two and a half (+/- 2.5) percent or +/- \$0.50 kw-yr, whichever is lower. Errors below this materiality threshold will be deferred to the True-Up.

1. If the Transmission Provider identifies an error in the Projection or the FERC Form No. 1 data or data based on the Transmission Provider’s books and records that is used as an input to the Projection, or the Transmission Provider is required by applicable law or a court or regulatory body to correct an error, and such error constitutes a Material Correction, as defined above, the Transmission Provider shall correct the error by recalculating the Annual Update in good faith within two (2) calendar months (or such period specifically directed by applicable law, court or regulatory body) and without regard to whether the correction increases or decreases

the Transmission Provider's revenue requirements. All identified errors shall reset the rights of Interested Parties to make information requests and challenges including the deadlines set out in Articles II and III, above, as to the specific errors and related corrective revisions. Invoices sent prior to the correction of the error shall be corrected as part of the True-Up. Notwithstanding the foregoing provisions, inaccuracies in the limited projections provided for in Section I.3.a(A) and (B) are not errors subject to the procedures set forth in this Article IV.

2. Any correction(s) or modification(s) to the Formula Rate True-Up that is (are) determined through the Annual Review Procedures, including resolution(s) of Preliminary Challenges and Formal Challenges, shall be refunded or surcharged the earlier of (i) the next monthly billing cycle after the conclusion of the time to file a Formal Challenge or (ii) the next monthly billing cycle after it is clear that there will be no Formal Challenges. Should a Commission order refunds or surcharges, such refunds or surcharges will be made pursuant to the Commission's order.
3. If the Transmission Provider files any corrections or modifications to its FERC Form No. 1 for any prior year after the window for submitting a Formal Challenge to an Annual Update has expired, and such corrections or modifications affect the charges produced by the True-Up for prior Rate Year(s), the Transmission Provider shall correct the error by recalculating the True-Up for the affected Rate Year(s) in good faith within two (2) calendar months (or such period specifically directed by applicable law, court or regulatory body) and without regard to whether the correction increases or decreases the Transmission Provider's revenue requirements for the affected Rate Year(s). All identified errors shall reset the rights of Interested Parties

and the deadlines set out in Articles II and III, above, only as to such errors and the associated corrective revisions.

4. Except as otherwise specified pursuant to a Commission order, all refunds or surcharges shall be determined with interest calculated in accordance with 18 C.F.R. § 35.19a.

V. Party's Rights and Burden of Proof

1. Nothing in these Protocols affects any rights the Transmission Provider, FERC, or any Interested Party may have under the FPA, including the right of the Transmission Provider to file a change in rates under Section 205 of the FPA or the right of an Interested Party to file a complaint that is not a Formal Challenge at any time under Section 206 of the FPA or other Commission regulation, or for an Interested Party to participate in any Commission proceeding relating to the Formula Rate. Nothing in these Protocols affects or modifies in any manner the procedural and substantive requirements, including requirements relating to the burden of proof, that are otherwise applicable under Commission precedent, regulations, and statute, in such a proceeding. The provisions of these Protocols addressing review and challenge of the Annual Update shall not be construed as limiting the Transmission Provider's, FERC's, or any Interested Party's rights under any applicable provision of the FPA.
2. Failure to have made a Preliminary Challenge or Formal Challenge pursuant to these Protocols shall neither, in any manner, be asserted against a complainant in a proceeding instituted under Section 206 of the FPA nor prejudice or otherwise limit the complainant's right to relief that may be granted pursuant to Section 206 of the

Federal Power Act.

3. Nothing herein is intended to alter the established burden(s) of going forward or burden(s) of proof as applied by the FERC at the time of any proceeding. Notwithstanding and without limiting the foregoing, in any proceeding ordered by FERC in response to a Formal Challenge raised under these Protocols or a proceeding initiated *sua sponte* by the Commission, the Transmission Provider shall have the ultimate burden of proof to establish that: (i) it reasonably applied the Formula Rate; (ii) it reasonably calculated the challenged Annual Update pursuant to the Formula Rate; and (iii) it reasonably adopted and applied any Accounting Change.