

July 25, 2007

VIA HAND DELIVERY

Public Utility Commission of Oregon
Attention: Filing Center
550 Capitol Street NE, Suite 215
Salem, OR 97301-2551

Re: *Wah Chang v. PacifiCorp*
Docket No. UM 1002

Dear Sir or Madam:

Enclosed for filing are the originals of:

1. Wah Chang's Reply to PacifiCorp's Motion to Strike Portions of Wah Chang's Rebuttal Testimony or, in the Alternative, for Leave to Submit Limited Sur-Rebuttal Testimony, with attached Certificate of Service.
2. Affidavit of Richard H. Williams in Support of Wah Chang's Reply to PacifiCorp's Motion to Strike Portions of Wah Chang's Rebuttal Testimony or, in the Alternative, for Leave to Submit Limited Sur-Rebuttal Testimony, with attached Certificate of Service.

The Reply refers to information that has been designated by PacifiCorp as Confidential Pursuant to Protective Order. Accordingly, we are filing the Reply under seal and on yellow paper.

Consistent with Commission filing rules, I am also enclosing a compact disk containing an electronic version of the Affidavit.

Very truly yours,



Richard H. Williams

RHW:kc
Enclosures
cc (w/encs) ALJ Patrick Power
Service List

006854.0164/639550.1

OPUC Docket UM 1002

**THIS ENVELOPE IS SEALED PURSUANT TO ORDER NO. 01-149 AND CONTAINS
CONFIDENTIAL INFORMATION. THE INFORMATION MAY BE SHOWN ONLY
TO QUALIFIED PERSONS AS DEFINED IN THE ORDER**

**WAH CHANG'S REPLY TO PACIFICORP'S MOTION TO STRIKE PORTIONS OF WAH
CHANG'S REBUTTAL TESTIMONY OR, IN THE ALTERNATIVE, FOR LEAVE TO
SUBMIT LIMITED SUR-REBUTTAL TESTIMONY**


1 CERTIFICATE OF SERVICE

2 I certify that on July 25, 2007, I served the AFFIDAVIT OF RICHARD H. WILLIAMS
3 IN SUPPORT OF WAH CHANG'S REPLY TO PACIFICORP'S MOTION TO STRIKE
4 PORTIONS OF REBUTTAL TESTIMONY OR, IN THE ALTERNATIVE, FOR LEAVE TO
5 SUBMIT LIMITED SUR-REBUTTAL TESTIMONY upon all parties of record in this
6 proceeding, by delivering a copy in person or by mailing a copy properly addressed with first
7 class postage prepaid, or by electronic mail pursuant to OAR 860-013-0070, to the following
8 parties or attorneys of parties:

9 Paul Graham
10 Assistant Attorney General
11 Department of Justice
12 Regulated Utility & Business Section
13 1162 Court Street NE
14 Salem, OR 97301-4096
15 paul.graham@state.or.us

16 Natalie Hocken
17 Vice President & General Counsel
18 PacifiCorp
19 825 NE Multnomah, Suite 2000
20 Portland, OR 97232
21 natalie.hocken@pacificorp.com

22 By Hand Delivery:
23 James M. Van Nostrand
24 Perkins Coie LLP
25 1120 NW Couch Street, Tenth Floor
26 Portland, OR 97209-4128
jvannostrand@perkinscoie.com



Richard H. Williams
Of Attorneys for Petitioner Wah Chang

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BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

Wah Chang,

v.

PacifiCorp,

Petitioner,

Respondent.

) Docket _____
)
) PETITIONER'S FIRST DATA
) REQUEST

11
12 Pursuant to OAR 860-14-0070, petitioner Wah Chang requests that respondent PacifiCorp
13 produce the following documents at the offices of Lane Powell Spears Lubersky LLP, 601 SW
14 Second Avenue, Suite 2100, Portland, Oregon 97204-3158, not later than December 15, 2001. This
15 request is a continuing request and requires production of all documents requested which are
16 subsequently acquired by you, up to and including the date of trial.

17 DEFINITIONS AND INSTRUCTIONS

18 1. "Document" or "documents" means, without limitation, any written, typewritten,
19 printed, graphic, photographic, visual or otherwise recorded material whatsoever, including, without
20 limitation, notes, memoranda, letters, audio or visual recordings, electronic mail, computer printouts
21 or stored computer data, tapes, transcriptions of records and recordings, photographs, or other data
22 compilation, and any other tangible items that may be included in the definition of "writings and
23 recordings" under Oregon Rules of Evidence 1001(4) and includes, without limitation, originals,
24 any nonconforming copies and drafts. "Document" or "documents" also includes, without
25 limitation, "electronic data," which means the original and any non-identical copies and drafts of
26 mechanical, facsimile, electronic, magnetic, digital, or other files (whether private, commercial, or

1 work-in progress) including but not limited to all electronic mail, program change logs and activity
2 listings of electronic mail receipts and/or transmittals, output resulting from the use of any software
3 program, including word processing documents, spreadsheets, database files, charts, graphs and
4 outlines, and any and all miscellaneous files and/or file fragments, regardless of the media on which
5 they reside and regardless of whether said electronic data consist in an active, deleted file or file
6 fragment.

7 2. The term "relating to" is used in the broadest sense conceivable and means
8 concerning, pertaining to, referring to, alluding to, responding to, in connection with, commenting
9 on, in response to, regarding, explaining, evidencing, discussing, showing, indicating, describing,
10 studying, reflecting, analyzing, constituting, supporting or contradicting.

11 3. "Counterparty" means the other party to the transaction.

12 4. "Dow COB Index" means the Dow Jones COB Wholesale Electricity Firm Price
13 Index.

14 5. "Duration" means number of hours of contracted continuous delivery.

15 6. "EHV" means "extra high voltage," as respondent understands that term to be
16 defined by WSCC.

17 7. "Master Electric Service Agreement" means the Master Electric Service Agreement
18 dated effective September 1, 1997 by and between Wah Chang and PacifiCorp.

19 8. "STF" means a short term firm transaction of no greater than one-day duration.

20 9. "Transaction" means sale or purchase.

21 10. "WSCC" means Western States Coordinating Council.

22 11. The documents produced in response to this request for production are to be
23 segregated and identified by the number of the request to which they are responsive.

24 12. If you claim any requested documents are not required to be produced as a result of
25 the application of any privilege or other protection against discovery including, but not limited to,
26 the attorney-client privilege or the work product doctrine, you are requested to identify those

1 documents stating the author, recipient(s), date, and subject matter in enough detail so that a
2 determination can be made about the applicability of the privilege or other protection against
3 discovery.

4 13. Any numerical or computer data are to be provided on disk or CD Rom.
5

6 **DOCUMENTS TO BE PRODUCED**

7 **REQUEST NO. 1:** All documents relating to the negotiation of the Master Electric
8 Service Agreement.

9 **REQUEST NO. 2:** All documents relating to the approval of the Master Electric Service
10 Agreement by the Oregon Public Utility Commission.

11 **REQUEST NO. 3:** Respondent's Integrated Resource Plan(s) in effect as of March 1997
12 and September 1997.

13 **REQUEST NO. 4:** All documents identifying respondent's STF transactions for the
14 period January 1, 1997 to the date of production, including documents recording such
15 transactions by day, duration, megawatts per hour, type of transaction, price in dollars per
16 megawatt hour, counterparty and point of delivery.

17 **REQUEST NO. 5:** All documents identifying each transaction used to calculate
18 respondent's daily submission to the Dow COB Index for the period January 1, 1997 to the date
19 of production.

20 **REQUEST NO. 6:** All documents constituting respondent's daily submissions to the
21 Dow COB Index during the period January 1, 1997 to the date of production.

22 **REQUEST NO. 7:** All documents constituting or relating to agreements by respondent
23 to participate in the Dow COB Index.

24 **REQUEST NO. 8:** All documents showing EHV data in the area served by the WSCC
25 for the period January 1, 1997 to the date of production, including documents recording such
26 data by average megawatt per hour for each generating plant, average megawatt per hour

PAGE 3 - PETITIONER'S FIRST DATA REQUEST

1 transmission path, average megawatt scheduled per hour per transmission path, and average
2 megawatt path limit per hour per transmission path. Please submit these documents in Excel
3 electronic format.

4 REQUEST NO. 9: All documents from or relating to WSCC and constituting or relating
5 to EHV reporting instructions, directives or information, including specifically the definition of
6 EHV for reporting purposes.

7 REQUEST NO. 10: Respondent's production cost model, PD/MAC, in the electronic
8 version used by respondent to prepare exhibits, testimony and work papers in OPUC proceeding
9 UE-116, including: (a) the program for PD/MAC in source code and executable format, (b) all
10 input data files for all scenarios relating to positions taken by respondent in UE-116, (c) all
11 output files for all scenarios relating to positions taken by respondent in UE-116, (d) all
12 computer files used by respondent to build an executable PD/MAC program from the source
13 code, including a copy of the Pascal compiler so used, and (e) a complete specification of the
14 computer hardware and system software used to compile and run PD/MAC as contemplated by
15 the information sought in parts (a) through (d) of this request.

16
17 DATED December 1, 2000.

18 LANE POWELL SPEARS LUBERSKY LLP

19
20 By Richard H. Williams

21 John Wiley Gould, OSB No. 68055
22 Richard H. Williams, OSB No. 72284

23 Attorneys for Petitioner.
24
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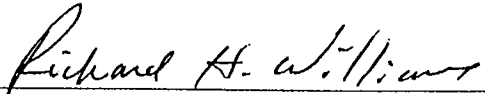
PAGE 4 - PETITIONER'S FIRST DATA REQUEST

1 CERTIFICATE OF SERVICE

2
3 I certify that I have this day served the foregoing Petitioner's First Data Request upon all
4 parties to this proceeding by delivering a copy in person or by mailing a copy properly addressed
5 with first class postage prepaid to the following parties or attorneys of parties:

6 PacifiCorp
7 Attn: Andy MacRitchie, Senior Vice President
8 825 N.E. Multnomah, Suite 1700
9 Portland, Oregon 97232

Dated at Portland, Oregon this 1st day of December, 2000.

10 
11 _____
12 Richard H. Williams
13 Of Attorneys for Petitioner
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PERKINS COIE LLP

1211 SOUTHWEST FIFTH AVENUE, SUITE 1500 · PORTLAND, OREGON 97204-3715
TELEPHONE: 503 727-2000 · FACSIMILE: 503 727-2222

JAY A. ZOLLINGER
(503) 727-2047
zollj@perkinscoie.com

March 30, 2001

BY HAND DELIVERY

Mr. Richard H. Williams
Lane Powell Spears Lubersky LLP
601 SW Second Avenue, Suite 2100
Portland, OR 97204-3158

**Re: *Wah Chang v. PacifiCorp*;
PUC Docket No. UM 1002**

Dear Rich:

Enclosed are the documents that PacifiCorp was ordered to produce in response to Wah Chang's Motion to Compel, including three floppy disks containing PacifiCorp's PD/MAC program and output files in electronic format. The information on these disks is being produced subject to the protective order already entered in this matter. Please remit \$267.12 to cover the cost of copying the enclosed documents for Wah Chang. An invoice is enclosed.

Also enclosed is PacifiCorp's Supplemental Responses to Data Requests Nos. 15 and 19. Document number PC01278 is responsive to Data Request No. 19.

You will note that the information about short-term firm transactions, which is responsive to Data Requests Nos. 4 and 5, goes back to January 1, 1998. Before that date, PacifiCorp's records do not distinguish short-term firm transactions from other types of transactions. Moreover, prior to January 1, 1999, PacifiCorp's transaction database did not have the capability to capture real-time transactions. The information provided for short-term transactions prior to January 1, 1999, therefore, does not any include real-time transactions.

You will also note that PacifiCorp has provided copies of the information it submitted to Dow Jones between February 21, 2001, and the present. As indicated previously, PacifiCorp does not maintain records of its Dow Jones submissions. The enclosed documents, however, do include all submissions that PacifiCorp's

[24878-0008/PA010870.013]

EXHIBIT B
page 1 of 2

Mr. Richard H. Williams
March 30, 2001
Page 2

information technology department was able to retrieve from PacifiCorp's email archiving system. I anticipate a small number of additional documents responsive to requests 8 and 9 will be available early next week. We will deliver copies to your office immediately upon receipt.

This production, along with the small number of anticipated additional documents, satisfies all of PacifiCorp's outstanding discovery obligations to Wah Chang. Pursuant to the agreement described in your letter to Judge Bergen, therefore, any follow up data requests are due April 4, 2001, and Wah Chang's evidence is due April 13, 2001.

Thank you for your patience and professional cooperation.

Sincerely,


Jay A. Zollinger

JAZ:mlb
Enclosures

c (w/o enc): Larry Reichman
Rich Baum

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7 **BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

8 **UM 1002**

9 Wah Chang,

Petitioner,

10 v.

11 PacifiCorp,

Respondent.

**PACIFICORP'S SUPPLEMENTAL
RESPONSE TO PETITIONER'S
THIRTEENTH DATA REQUEST
(Request Nos. 153-154)**

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13
14 PacifiCorp responds and objects as follows to Wah Chang's Thirteenth Data Request:

15 **GENERAL RESPONSES AND OBJECTIONS**

16 1. PacifiCorp objects to petitioner's data request to the extent it seeks documents and
17 information other than documents and information in PacifiCorp's possession, custody, or
18 control.

19 2. PacifiCorp objects to petitioner's data request to the extent it seeks the production
20 of documents protected from disclosure under the attorney-client privilege, the work product
21 doctrine, or any other applicable privilege.

22 3. PacifiCorp objects to petitioner's data request to the extent it seeks the production
23 of confidential, proprietary, or commercially sensitive documents and information. Any such
24 documents that are produced will be produced only subject to the protective order in place in this
25 matter, Commission Order No. 01-149, or such other protective order as may be necessary.
26

1 previously, PacifiCorp states that it does not currently have any responsive documents in its
2 possession other than those that have previously been produced in this proceeding as referenced
3 in the request. In his cover letter to this Data Request, Wah Chang's counsel stated: "Dow Jones
4 will release the requested information to PacifiCorp upon request by PacifiCorp. Consequently,
5 we believe that the information is within PacifiCorp's 'possession, custody or control' regardless
6 of whether PacifiCorp retained copies of its submissions." With respect to this statement,
7 PacifiCorp promptly initiated inquiries with Dow Jones to determine whether Dow Jones
8 retained the requested information, whether Dow Jones could provide the requested information
9 to PacifiCorp, and what the cost and timing would be for Dow Jones to provide such information
10 to PacifiCorp. As of the date of this response, PacifiCorp has not received this information from
11 Dow Jones. PacifiCorp will supplement its response to this data request once it obtains this
12 information from Dow Jones. Any documents produced in response to this data request are
13 hereby designated CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER.

14 **SUPPLEMENTAL RESPONSE:** Dow Jones has informed PacifiCorp that it will not
15 provide the requested information to PacifiCorp upon its request and that it will produce the
16 requested information only in response to a subpoena. Accordingly, PacifiCorp denies that the
17 requested information is within PacifiCorp's "possession, custody or control."

18 **REQUEST NO. 154:** Please produce all spreadsheets or other data compilations
19 showing or summarizing the electricity transaction data PacifiCorp submitted to Dow Jones
20 during 2000-2001. Please produce the compilation in electronic format (or in hard copy if the
21 data do not exist in electronic format).

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing **PACIFICORP'S SUPPLEMENTAL**
3 **RESPONSE TO PETITIONER'S THIRTEENTH DATA REQUEST (Request Nos. 153-**
4 **154) on:**

4 Richard Williams
5 Lane Powell Spears Lubersky LLP
6 601 SW 2nd Avenue, Ste. 2100
7 Portland, OR 97204
8 williamsr@lanepowell.com
9 Attorneys for Wah Chang, Petitioner

10 by causing a full, true, and correct copy thereof, addressed to the last-known office
11 address of the attorney (except when served by fax), to be sent by the following indicated
12 method or methods, on the date set forth below:

11 by causing a copy to be electronically mailed to said attorneys at
12 their last known e-mail address

13 by **mailing** in a sealed, first-class postage-prepaid envelope and
14 deposited with the United States Postal Service at Portland,
15 Oregon

15 by **hand-delivery**.

16 by sending via **overnight courier** in a sealed prepaid envelope

17 by **faxing** to the attorney at the fax number shown above, which is
18 the last-known fax number for the attorney's office

19 DATED: November 3, 2005.

20 **PERKINS COIE LLP**

21 By 

22 Lawrence H. Reichman, OSB No. 86083
23 Jay A. Zollinger, OSB No. 97445

24 Attorneys for PacifiCorp

RECEIVED IN OFFICE
LANE POWELL PC
DATE 12/1/05
TIME 4:11 PM

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1002

Wah Chang,
Petitioner,
v.
PacifiCorp,
Respondent.

PACIFICORP'S RESPONSE TO
PETITIONER'S FIFTEENTH DATA
REQUEST (Request No. 156-157)

PacifiCorp responds and objects as follows to Wah Chang's Fifteenth Data Request:

GENERAL RESPONSES AND OBJECTIONS

1. PacifiCorp objects to petitioner's data request to the extent it seeks documents and information other than documents and information in PacifiCorp's possession.
2. PacifiCorp objects to petitioner's data request to the extent it seeks the production of documents protected from disclosure under the attorney-client privilege, the work product doctrine, or any other applicable privilege.
3. PacifiCorp objects to petitioner's data request to the extent it seeks the production of confidential, proprietary, or commercially sensitive documents and information. Any such documents that are produced will be produced only subject to the protective order in place in this matter, Commission Order No. 01-149, or such other protective order as may be necessary.
4. By responding to this data request, PacifiCorp does not in any way waive or intend to waive, but instead intends to preserve, all objections as to the competency, relevancy,

14 **REQUEST NO. 156: PacifiCorp's Supplemental Response to Petitioner's Thirteenth**
15 Data Request (Request Nos. 153-154) ("Supplemental Response") states:

16 "Dow Jones has informed PacifiCorp that it will not provide the requested information to
17 PacifiCorp upon its request and that it will produce the requested information only in
18 response to a subpoena. Accordingly, PacifiCorp denies that the requested information is
within PacifiCorp's 'possession, custody or control.'"

19 (a) Please state whether PacifiCorp has called Dow Jones' attention to the letter
20 agreement dated February 1995 between Dow Jones and PacifiCorp, which states in relevant
21 part: 'Participant and DJT agree that Participant will retain sole ownership of the data provided
to DJT * * * .'

22 (b) If the answer to (a) is "yes," please state when PacifiCorp did so and state Dow
23 Jones' response.

24 (c) If the answer to (a) is "no," please state why PacifiCorp has not done so.

25 **RESPONSE: (a) Yes.**
26

1 (b) Following receipt of an email from Richard Williams on November 15, 2005, calling
2 PacifiCorp's attention to the referenced language in the 1995 agreement, PacifiCorp called Dow
3 Jones' attention to that same language on November 16, 2005. Later in the day of November 16,
4 2005, Dow Jones informed PacifiCorp that it had changed its position and would provide the
5 requested information to PacifiCorp upon payment of costs, which Dow Jones estimated to be
6 approximately \$500.00. On November 17, 2005, PacifiCorp requested Dow Jones to proceed
7 with providing the requested information at the earliest possible time. PacifiCorp's attorney
8 provided this information to Mr. Williams on November 18, 2005. However, Mr. Williams
9 informed PacifiCorp's attorney on November 18, 2005, that Wah Chang would be issuing a
10 subpoena to Dow Jones for the information. PacifiCorp subsequently informed Dow Jones that a
11 subpoena would be forthcoming.

12 (c) Not applicable.

13 DATED: December 1, 2005.

14
15 PERKINS COIE LLP

16
17 By 

18 Lawrence H. Reichman, OSB No. 86083

19 Attorneys for PacifiCorp
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21
22
23
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25
26

December 27, 2005

BY FEDERAL EXPRESS

Richard Williams, Esq.
Lane Powell PC
601 SW Second Avenue, Suite 2100
Portland, Oregon 97204

Re: Wah Chang v. PacifiCorp; Subpoena served on Dow Jones

Dear Mr. Williams:

Enclosed please find documents responsive to the subpoena. While Dow Jones considers portions of these documents to be subject to the qualified journalist's privilege that protects against compelled disclosure of unpublished information, the data comes from and is owned by PacifiCorp, which has approved our sending you the documents directly on the understanding they will be treated as confidential.

Request No. 2 of the subpoena seeks spreadsheets, if any, containing the requested data. Dow Jones does possess spreadsheets incorporating the same data as contained in the enclosed documents, but has no spread sheets reflecting solely PacifiCorp data. To gather and redact the several hundred spreadsheets to exclude non-responsive data from other sources would require extensive time and money and would be extremely burdensome to Dow Jones. Such an effort would also be duplicative, as there is no PacifiCorp information on the spreadsheets that is not contained in enclosed documents.

Very truly yours,



Enclosures

cc. Natalie Hocken, Esq. (w/encl.)

EXHIBIT E
page 1 of 1