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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1002

WAH CHANG,

Petitioner,

v.

PACIFICORP,

Respondent.

**PACIFICORP'S REPLY TO WAH
CHANG'S MOTION TO STRIKE**

Pursuant to leave granted by Administrative Law Judge Patrick Power, PacifiCorp submitted Supplemental Reply Testimony of Charles J. Cicchetti, Ph.D. and Jeffrey A. Dubin, Ph.D., on Monday, July 30, 2007. On Wednesday, August 1, 2007, Wah Chang moved to strike portions of that testimony as being outside the scope prescribed for the Supplemental Reply Testimony, *i.e.*, to respond to the "Howard Study." Specifically, Wah Chang seeks to strike the Supplemental Reply testimony from page 5, line 24 through page 7, line 4.

Counsel for PacifiCorp acknowledges that the scope of the Supplemental Reply Testimony was to be limited to responding to the Howard Study, which was presented at pages 13-16 of Mr. Howard's rebuttal testimony and in his Exhibit WC/1203. The portion of the testimony which Wah Chang seeks to strike is inextricably linked to the Howard Study, however, because Mr. Howard models data that he says Mr. McCullough and his firm collected and used in determining what was a "buy/resell" day for purposes of Mr. Howard's study. Mr. Howard used Mr. McCullough's spreadsheet of alleged PacifiCorp buy/resells with Enron in his model.

1 At page 13 lines 17-18 of Mr. Howard's Rebuttal Testimony, he states that he "will use the term
2 'buy/resells' to refer to the non-transmission buy/resell transactions described in
3 Mr. McCullough's testimony." In Wah Chang's Exhibit WC/1203, Mr. Howard clarifies that he
4 used Mr. McCullough's Excel file named "PacifiCorp Buy Resale with Enron.xls." which "lists
5 non-transmission buy/resells described in Mr. McCullough's testimony."
6

7 Mr. McCullough discusses buy/resell transactions in the context of facilitating ricochet
8 transactions. Mr. McCullough at page 49 lines 15-16 states that the PacifiCorp non-transmission
9 buy/resells discussed in his testimony were part of Ricochet transactions. Thus, Mr. Howard
10 relies on Mr. McCullough's data on buy/resells and utilizes his definition and data to test
11 hypotheses and quantify the alleged effect of the days that both Mr. Howard and
12 Mr. McCullough use to tie these buy/resells to Ricochets. It is impossible to address
13 Mr. Howard's model and data without referencing Mr. McCullough, the source of part of
14 Mr. Howard's data. Mr. Howard's results can be no better than his data inputs, which are taken
15 directly from Mr. McCullough. Thus, there is a basis of addressing Mr. McCullough's testimony
16 regarding Ricochets, given its relationship to the source of the data used in the Howard Study.
17

18 Notwithstanding the foregoing explanation, in the interests of minimizing the issues in
19 contention in this proceeding, PacifiCorp is agreeable to striking the portions of the
20 Supplemental Reply Testimony cited in Wah Chang's motion. Rather than refile the testimony
21 with these pages removed, PacifiCorp proposes to provide a new copy of the testimony with the
22 offending portion redacted, so as to leave in place the pagination and line numbers for the
23 remaining portion of the Supplemental Reply Testimony. PacifiCorp proposes to provide these
24
25
26

1 replacement copies of the Supplemental Reply Testimony at the commencement of hearings on
2 Tuesday, August 7.

3
4 DATED: August 3, 2007

PERKINS COIE LLP

5
6 By 

James M. Van Nostrand, OSB No. 794289
Christopher L. Garrett, OSB No. 031000

7 Attorneys for PacifiCorp
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1 **CERTIFICATE OF SERVICE**

2 I certify that I have this day served the foregoing document, encaptioned PACIFICORP'S
3 REPLY TO WAH CHANG'S MOTION TO STRIKE, by mailing a copy properly addressed
4 with first class postage prepaid, and by electronic mail pursuant to OAR 860-013-0070, to:

5 Richard H. Williams
6 Milo Petranovich
7 Lane Powell PC
8 Suite 2100
9 601 SW Second Avenue
10 Portland, OR 97204

Paul Graham (by U.S. Mail)
Assistant Attorney General
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9 Natalie L. Hocken
10 Vice President and General Counsel
11 Pacific Power
12 825 NE Multnomah, Suite 2000
13 Portland, OR 97232

13 DATED: August 3, 2007.

14 **PERKINS COIE LLP**

15 By 

16 James M. Van Nostrand, OSB No. 794289
17 Christopher L. Garrett, OSB No. 031000

18 Attorneys for PacifiCorp