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December 8, 2008

Patrick Power
Administrative Law Judge
Oregon Public Utility Commission
PO Box 2148
Salem, OR 97308-2148

Re: Docket UM 1002; Wah Chang v. PacifiCorp

Dear Judge Power:

I am writing regarding Wah Chang's Request for Official Notice filed on December 3, 2008 (the "Request"). PacifiCorp opposes Wah Chang's Request and intends to file a full response no later than December 18, 2008, pursuant to OAR 860-013-0050(3)(d), unless otherwise directed by the Commission. PacifiCorp intends to oppose this Request on a number of grounds, including: that the Oregon Supreme Court's denial of PacifiCorp's writ of mandamus in the Linn County lawsuit is not probative of anything; the proffered evidence is not relevant to any issue in dispute in this case; and, the Commission has already denied Wah Chang's motion to exclude assumption of risk as a defense, which Wah Chang re-argues in the Request.

There is, however, one additional, straightforward reason why the Commission should deny the Request: the evidentiary record in this proceeding is closed. As you will recall, PacifiCorp proposed to introduce some documents in the record during the oral argument hearing on November 12, 2008. This request was denied on the basis that evidence is no longer admissible at this stage of the proceeding. *See* attached excerpt of transcript, p. 43 (evidentiary ruling of Judge Power). This ruling applies equally to Wah Chang's Request to introduce additional evidence into the record at this time. If the Commission denies Wah Chang's Request on this basis, and does so by December 12,

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Perkins Coie LLP and Affiliates

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2008, then PacifiCorp will not expend the time or resources to develop and file a more full response to this Request.

Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'L. Reichman', with a stylized flourish at the end.

Lawrence Reichman

LR:dma
Enclosure
cc: Service list

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1002

WAH CHANG,)
)
 Petitioner,)
)
 vs)
)
 PACIFICORP,)
)
 Respondent.)

November 12, 2008

-:-

APPEARANCES:

LANE POWELL
By Richard H. Williams
Attorney at Law
Appearing in behalf of the Petitioner

PERKINS, COIE
By Lawrence H. Reichman
Attorney at Law
Appearing in behalf of the Respondent

1 for PacifiCorp's other customers or for
2 PacifiCorp shareholders to bear the consequences
3 of Wah Chang's losing bets.

4 Before I conclude, I just want to offer,
5 I've got a couple pages of the articles that I
6 referred to where Wah Chang passed its energy
7 costs on. I'd be pleased to offer that in the
8 record if you'd like.

9 JUDGE POWER: Those are not admissible.
10 If you're trying to submit evidence at this stage
11 of the proceeding, the Commission will not
12 receive that.

13 MR. REICHMAN: They are in public record,
14 but that's fine, I'll hold onto them. Thank you.

15 JUDGE POWER: Mr. Williams?

16 MR. WILLIAMS: Thank you, Your Honor.
17 I'd like first to talk about the question that
18 Commissioner Savage asked and Commissioner Baum
19 asked, and that is, what does Wah Chang need to
20 prove and does it need to prove a causal
21 connection between -- a specific direct causal
22 connection between PacifiCorp's actions and the
23 high rates that it paid. I do not think we do
24 need to prove that. This is not a common law
25 tort case.