

February 23, 2006

BY HAND DELIVERY

Public Utility Commission of Oregon
Attention: Filing Center
550 Capitol Street NE #215
PO Box 2148
Salem, OR 97308-2148

Re: *Wah Chang, Petitioner v. PacifiCorp, Respondent*
Docket UM 1002

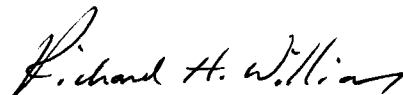
Dear Sir or Madam:

Enclosed for filing in the above-captioned proceeding are the original and five copies of items 1 through 6.

1. Wah Chang's Motion to Exclude Information from Protective Order;
2. Memorandum in Support of Wah Chang's Motion to Exclude Information from Protective Order, filed under seal;
3. Memorandum in Support of Wah Chang's Motion to Exclude Information from Protective Order [Redacted Public Version];
4. Affidavit of Robert McCullough in Support of Wah Chang's Motion to Exclude Information from Protective Order;
5. Stipulation Regarding Certain Wah Chang Exhibits; and
6. Certificate of Service.

Also enclosed is a CD containing items 1, 3, 4, 5, 6 and this letter.

Very truly yours,



Richard H. Williams

Enclosures

cc (w/enc, including CD): Service List

006854.0164/558716.1

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4 **BEFORE THE PUBLIC UTILITY COMMISSION**
5 **OF THE STATE OF OREGON**

6 **UM 1002**

7 Wah Chang,

8 Petitioner,)

9 v.)

10 PacifiCorp,)

11 Respondent.)

**WAH CHANG'S MOTION
TO EXCLUDE INFORMATION
FROM PROTECTIVE ORDER**

12
13 Petitioner Wah Chang moves to exclude from the protection conferred by Protective
14 Order No. 01-149 information in the following Wah Chang exhibits filed on December 15, 2005:

- 15 WC/800 Direct Testimony of Robert McCullough (corrected January 3, 2006),
16 except page 14, ll. 21-22.
- 17 WC/842 2005 Discovery Buy Resell by Counterparty
- 18 WC/849 Exhibit 8A, 8B and 8C to Affidavit of Stanley K. Watters
19 May 22, 2000
- 20 WC/856 Audio File Names for Some Buy/Resell Conversations
- 21 WC/902 Excel Spreadsheet Containing Hyperlinks to Audio Files of Trader
22 Conversations Submitted to FERC and Cross-References to Transcript of
FERC Submitted Conversations (WC/901) – (on CD)
- 23 WC/903 Transcripts of PacifiCorp Trader Conversations Selected through Wah
24 Chang Listening Project
- 25 WC/904 Excel Spreadsheet Prepared by McCullough Research of Selected Audio
26 Files from Wah Chang's Listening Project and Corresponding [Audio
Files] (on CD)

1 WC/905 PC 075269 – Produced by PacifiCorp as Attachment 155 in Response to
2 Wah Chang Data Requests – (on CD)

3 WC/906 PC 018963 – Produced by PacifiCorp as Attachment 99 in Response to
4 Wah Chang Data Requests – (on CD)

5 WC/907 Real-Time Blotters (PC 019435 through PC 027756) Produced by
6 PacifiCorp as Attachment 92 in Response to Wah Chang Data Requests
(on DVD)

7 WC/1000 Deposition Testimony of Greg Maxfield, taken October 17, 2005

8 WC/1001 Deposition Testimony of Valarie Sabo, taken October 24, 2005

9 WC/1002 Deposition Testimony of David Kvamme, taken October 24, 2005

10 WC/1003 Deposition Testimony of Jim Portouw, taken November 15, 2005

11 WC/1004 Deposition Testimony of John Apperson, taken November 15, 2005

12 WC/1005 Deposition Testimony of Paul Kroger, taken November 16, 2005

13 WC/1006 Deposition Testimony of Marlin Green, taken November 16, 2005

14 WC/1007 Deposition Testimony of Todd Carpenter, taken November 21, 2005,
15 except deposition pages 105-107

16 WC/1008 Deposition Testimony of John Rogers, taken November 21, 2005

17 WC/1009 Deposition Testimony of Stanley Watters, taken November 29, 2005

18 WC/1010 Deposition Testimony of Gary Eldridge, taken November 30, 2005

19 WC/1108 Letter from Edward Silliere of Dow Jones to “Gentlemen”
20 RE: Guidelines for Participants, California-Oregon Border (COB)
Electricity Price Index, dated February 1, 1995

21 WC/1118 Supplemental Response of PacifiCorp to FERC’s Data Request,
22 dated May 21, 2002

23 Supplemental Affidavit of Stanley K. Watters on Behalf of PacifiCorp

24 WC/1119 Exhibit 2 to PacifiCorp’s Response to FERC’s Data Request, dated
25 May 21, 2002

26

1 WC/1121 E-mail:

- 2 • July 6, 2000, from Terry Hudgens to Stan Watters et al. re Cal ISO
- 3 • September 8, 2000, from Keith Johnson to Alan Richardson et al.
- 4 re Energy Market Report—09/07/00
- 5 • March 20, 2001, from Keith Johnson to Alan Richardson et al.
- 6 re Energy Market Report—03/19/01
- 7 • May 25, 2001, from Steven Wallace to Cory Anderson et al.
- 8 re Downward Price Pressure
- 9 • June 25, 2001, from John Apperson to Jim Portouw et al.
- 10 re Effect of FERC Price Cap Order on Fundamentals
- 11 • July 9, 2001, from Nathalie Wessling to Cory Anderson et al.
- 12 re July 9 Bloomberg Power Lines Report
- 13 • August 10, 2001 from Rob Goodman to Jean Wilson et al.
- 14 re Scheduling Stateline

14 WC/1122 Attachment 126(b) to PacifiCorp Data Response

15 WC/1123 List of PacifiCorp Traders and Organizational Chart

16 WC/1127 PacifiCorp Response to Oregon Department of Justice
17 Civil Investigative Demand, February 19, 2003

18 The foregoing documents were either designated by PacifiCorp as confidential pursuant
19 to the Protective Order or include information so designated. As a result of PacifiCorp's
20 designations, and in accordance with the Protective Order, Wah Chang filed the exhibits under
21 seal.

22 Notwithstanding PacifiCorp's designations, the information does not fall within
23 ORCP 36(C)(7). Wah Chang has contacted PacifiCorp and has attempted to resolve the dispute
24 on an informal basis.

1 This motion is supported by:

- 2 • Memorandum in Support of Wah Chang's Motion to Exclude Information from
- 3 Protective Order, and
- 4 • Affidavit of Robert McCullough in Support of Wah Chang's Motion to Exclude
- 5 Information from Protective Order.

6 DATED: February 23, 2006.

7 LANE POWELL PC

8
9 By *Richard H. Williams*
10 Richard H. Williams, OSB No. 72284
11 Milo Petranovich, OSB No. 81337

12 Attorneys for Petitioner Wah Chang
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5 **BEFORE THE PUBLIC UTILITY COMMISSION**
6 **OF THE STATE OF OREGON**

7 **UM 1002**

8 Wah Chang,

9 Petitioner,)

10 v.)

11 PacifiCorp,)

12 Respondent.)

**MEMORANDUM IN SUPPORT
OF WAH CHANG'S MOTION
TO EXCLUDE INFORMATION
FROM PROTECTIVE ORDER**
[REDACTED PUBLIC VERSION]

13 **I. INTRODUCTION**

14 This memorandum supports Wah Chang's Motion to Exclude Information from
15 Protective Order, filed contemporaneously with this memorandum. The motion, if granted,
16 would give the public access to information designated as confidential by PacifiCorp and filed by
17 Wah Chang under seal as its opening testimony and exhibits, including the Direct Testimony of
18 Robert McCullough, transcripts of audio taped PacifiCorp trader conversations, depositions of
19 PacifiCorp traders and other documents.

20 This proceeding involves events that occurred during the 2000-2001 crisis in western
21 wholesale energy markets—in particular, short-term purchases and sales of electricity by
22 wholesalers, including PacifiCorp. PacifiCorp has designated certain information about its 2000-
23 2001 transactions as confidential pursuant to the Commission's standard Protective Order
24 entered in this proceeding, Order No. 01-149 (the "Protective Order"), notwithstanding that the
25 transactions were fully consummated five or more years ago, and notwithstanding that
26

1 PacifiCorp transaction information from 2000-2001 is publicly available on the FERC website.
2 A copy of the Protective Order is attached to this memorandum as Attachment 1.

3 Under the Protective Order, information is entitled to protection only if it is “a trade
4 secret or other confidential research, development or commercial information.” Attachment 1
5 at 3. Wah Chang submits that virtually all the information that PacifiCorp has designated as
6 confidential does not qualify as a “trade secret or other confidential research, development or
7 commercial information” and is not entitled to protection. Information about PacifiCorp’s short-
8 term transactions in 2000-2001 is commercially stale, and in any event is publicly available
9 through FERC. Further, the public has an interest in the openness of Commission proceedings in
10 general and in access to the Wah Chang testimony and exhibits that PacifiCorp is attempting to
11 keep under seal. This is particularly true of the Testimony of Robert McCullough, which
12 “connects the dots” and shows [**REDACTED**

13].

14 **II. BACKGROUND**

15 Wah Chang filed its petition in December 2000 seeking a Commission order amending
16 its Master Electric Service Agreement dated September 11, 1997 with PacifiCorp. The contract
17 set forth terms for PacifiCorp’s electricity service to Wah Chang during the contract’s five-year
18 term. Beginning in September 2000, the contract rate was calculated monthly by reference to the
19 Dow Jones index of short-term wholesale market prices at the California-Oregon border.
20 Beginning in the spring of 2000 and continuing until the summer of 2001, wholesale market
21 prices skyrocketed and became highly volatile, with the result that Wah Chang paid PacifiCorp
22 exorbitant amounts for electricity.

23 Wah Chang’s petition alleged that its rate had become unjust and unreasonable and
24 requested that the Commission order a just and reasonable rate equal to the standard industrial
25 tariff rate. PacifiCorp opposed the petition, and the Commission denied relief. While Wah
26 Chang’s appeal to the Marion County Circuit Court was pending, FERC began to investigate

1 manipulation of western wholesale markets during 2000-2001 and made public the notorious
2 “Enron memos” describing trading schemes. The court granted Wah Chang’s motion for leave
3 to present additional evidence to the Commission, including evidence of western market
4 manipulation.

5 After denying PacifiCorp’s motion for summary reaffirmance, the Commission stayed
6 the proceeding pending FERC and other investigations. In March 2004, the Commission granted
7 Wah Chang’s motion to reopen the proceeding. However, the Commission again stayed the
8 proceeding at PacifiCorp’s request when PacifiCorp filed a motion to dismiss in the Marion
9 County Circuit Court. After the court denied the motion, the Commission lifted its stay in
10 February 2005.

11 In March 2005, Wah Chang re-commenced discovery, principally by submitting data
12 requests to PacifiCorp, listening to audio files of PacifiCorp trader conversations during
13 2000-2001 and deposing PacifiCorp traders and other personnel. PacifiCorp designated as
14 confidential much of the information it produced, including transaction records, the trader
15 conversations and the depositions.

16 Wah Chang filed its direct testimony and exhibits on December 15, 2005. Testimony and
17 exhibits that included information designated as confidential by PacifiCorp were filed under seal
18 as required by the Protective Order.

19 PacifiCorp’s reply testimony is due on May 18, 2006, Wah Chang’s rebuttal is due
20 June 29, 2006, and the hearing is scheduled for July 24-26, 2006.

21 **II. INFORMATION SOUGHT TO BE EXCLUDED**
22 **FROM PROTECTION**

23 Wah Chang’s motion lists the testimony and exhibits that Wah Chang seeks to exclude
24 from the Protective Order. The list includes all direct testimony and exhibits filed under seal
25 except (i) exhibits as to which PacifiCorp has withdrawn its confidentiality designation and has
26 agreed may be regarded as not subject to the Protective Order, *see* Stipulation Regarding Certain

1 Wah Chang Exhibits filed contemporaneously with this memorandum (the “Stipulation”), and
2 (ii) Exhibit WC/1126, consisting of PacifiCorp trader job performance ratings and bonus
3 amounts for 2000-2001.

4 The remaining sealed testimony and exhibits may be described as follows:

- 5 • Direct Testimony of Robert McCullough (WC/800). Mr. McCullough’s
6 testimony was filed under seal because information designated by PacifiCorp as
7 confidential appears in the testimony.
- 8 • PacifiCorp e-mails (WC/849, pp. 1 through 7; WC/1121). These e-mails were
9 written in 2000-2001 and relate to PacifiCorp trading during that period.
- 10 • Audio files and transcripts of certain PacifiCorp trader conversations during
11 2000-2001 (WC/902; WC/903; WC/904; see also WC/856).
- 12 • Records or summaries of PacifiCorp short-term purchases and sales during
13 2000-2001 (WC/805; WC/842; WC/850; WC/905; WC/906; WC/907).
- 14 • PacifiCorp’s response to information requests from FERC and the Oregon
15 Department of Justice (WC/849; WC/902; WC/1118; WC1119; WC/127).
16 During 2002 and 2003, these agencies requested information from PacifiCorp
17 concerning its 2000-2001 trading. The identified exhibits are PacifiCorp’s
18 responses. (WC/902 is transcripts, prepared by a court reporter at Wah Chang’s
19 request, of audio files submitted by PacifiCorp to FERC.)
- 20 • Deposition transcripts and exhibits, all of which PacifiCorp designated as
21 confidential (WC/1000 through WC/1010).
- 22 • Other exhibits (WC/1108; WC/1122/ WC/1123). This category includes, for
23 example, PacifiCorp’s 1995 agreement with Dow Jones concerning its price
24 indices.

25 Wah Chang submits that none of the information identified above qualifies for protection.
26

1 III. DISCUSSION

2 **A. PacifiCorp bears the burden of showing that the information is a trade secret and**
3 **that disclosure will cause a clearly defined and serious injury.**

4 Information is “confidential” and therefore eligible for protection under the Protective
5 Order if it “falls within the scope of ORCP 36(C)(7) (‘a trade secret or other confidential
6 research, development, or commercial information’).” Attachment 1 at 3. Once the Protective
7 Order is issued, a party such as PacifiCorp may designate information as confidential without
8 making a showing of confidentiality. If a party such as Wah Chang disagrees with the
9 designation, the party may move for an order excluding the information from protection. *Id.* at
10 6–7. “The party resisting disclosure has the burden of showing that the challenged information
11 falls within ORCP 36(C)(7).” *Id.* at 7. Thus, PacifiCorp bears the burden of showing that the
12 information is entitled to protection.

13 To satisfy its burden, PacifiCorp must prove that the information “is a trade secret or
14 other confidential commercial information” and that disclosure “will work a clearly defined and
15 serious injury.” *Citizens’ Utility Board v. Public Utility Commission*, 128 Or App 650, 658, 877
16 P2d 116 (1994) (citation and internal quotation marks omitted) (sustaining Commission’s
17 conclusion that party’s cost accounting information was entitled to protection under the two-part
18 test) (“*CUB v PUC*”); see also *In the Matter of Oregon Electric Utility Company, LLC, et al.*,
19 OPUC Docket UM 1121, Order No. 05-114(2005) at 7-9 (explaining that the two-part *CUB v.*
20 *PUC* test applies when a party contests a confidentiality designation under the Commission’s
21 standard protective order, not to issuance of the order).

22 **B. PacifiCorp cannot sustain its burden.**

23 It is highly unlikely that PacifiCorp will be able to prove that the information is
24 confidential or that “declassifying” the information will cause a “clearly defined and serious
25 injury.” *CUB v. PUC*, 128 Or App at 658. This is so for a number of reasons. *First*, the
26 information is stale. It concerns PacifiCorp’s day-ahead, same-day and real time trading that

1 occurred five or more years ago. Assuming the information was a trade secret at the time, it is
2 not now. Any commercial advantage that a competitor or counterparty may have realized from
3 knowing, for example, the trade prices or volumes has long since dissipated. See WC/800;
4 McCullough/122 (“[**REDACTED**]”).

5 *Second*, detailed information about PacifiCorp’s short-term trades during 2000-2001 is
6 publicly available on a FERC-sponsored website. When FERC began its investigation of
7 western market manipulation, it opened Docket No. PA02-2-000 and required market
8 participants to submit information about its trades during 2000-2001. A copy of FERC’s
9 March 5, 2002 data request for transaction information is attached hereto as Attachment 2. The
10 short-term transaction data PacifiCorp submitted in response may be found at
11 http://ferc.aspensys.com/FercData/EnronDataExtracts/DO4_25_WSCC_Sellers_Data_Monthly/.

12 Many documents that Wah Chang seeks to exclude from the Protective Order contain
13 trading information. For example, the audio files and transcripts are *verbatim* records of
14 PacifiCorp traders and the counterparties agreeing on the terms of the transactions. Other
15 documents are PacifiCorp’s written records of the transactions, or summaries of those records.
16 Yet other documents, including PacifiCorp’s responses to governmental agency data requests,
17 purport to explain the transactions. Given that transaction data is publicly available, these
18 documents are not confidential information.

19 *Third*, in addition to transaction data, FERC has made available to the public other
20 PacifiCorp information that it has designated as confidential in this proceeding. By Order
21 Directing the Release of Information, and subsequent orders, FERC ordered the release of “non-
22 public documents collected in Docket No. PA02-2-000” with certain exceptions not pertinent
23 here. *Fact Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices*,
24 102 FERC ¶ 61,311 at 62,048 (March 21, 2003). The released documents include Exhibits 3
25 through 9 to the Affidavit of Stanley K. Watters dated May 22, 2002 that PacifiCorp filed in
26 response to a FERC data request in Docket No. PA02-2-000. PacifiCorp had requested

1 confidential treatment of those exhibits when it filed Mr. Watters' affidavit, but FERC denied
2 PacifiCorp's request, and all other similar requests in Docket PA02-2-000, by its Order Directing
3 the Release of Information.

4 Notwithstanding FERC's public release in March 2003 of the Watters May 22 affidavit
5 exhibits, PacifiCorp designated them as confidential when it produced them to Wah Chang
6 fifteen months later. *See* WC/1111 at 2-3 (PacifiCorp's Response to Wah Chang's Data Request
7 No. 48). The Watters May 22 affidavit exhibits include documents that Wah Chang has
8 submitted in support of its case and that it seeks to remove from the Protective Order.
9 Specifically, they include certain PacifiCorp e-mails (WC/849 at 1-7), audio files of PacifiCorp
10 trader conversations during the period July to November 2000 (WC/902) and real time blotters
11 (trading logs) for the period July to November 2000 (constituting part of WC/907). These
12 documents are publicly available through FERC, and there is no reason for them to be treated as
13 confidential.

14 Similarly, PacifiCorp designated as confidential in this proceeding Exhibits 2 and 3 and
15 Revised Exhibit 2 to a second affidavit filed by Mr. Watters with FERC in Docket No.
16 PA02-2-000. *See* WC/1111 at 3 (PacifiCorp's Response to Wah Chang Data Request No. 49).
17 Wah Chang filed those documents under seal as WC/1118 and WC/1119, and its motion also
18 seeks to exclude those exhibits from the Protective Order. Again, they, like other PacifiCorp
19 documents filed in Docket No. PA02-2-000, have been released and are available to the public
20 through FERC. PacifiCorp cannot claim that publicly available documents are confidential.

21 *Finally*, it is highly likely that some designated information never was confidential. For
22 example, it is difficult to imagine that the identity of PacifiCorp's traders was a secret. *See*
23 WC/1123, List of PacifiCorp Traders and Organizational Chart.

24 PacifiCorp will not bear its burden of showing that the information is entitled to
25 protection.

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1 C. Assuming the information is a trade secret, the public interest weighs in favor of
2 excluding it from the Protective Order.

3 Even if PacifiCorp proves that the information is confidential, the Commission must
4 weigh the harm, if any, to PacifiCorp from “declassifying” the information against the public
5 interest in access to the information. See ORS 192.501(2) (exempting trade secrets from Public
6 Records Law unless “the public interest requires disclosure in the particular instance”); *CUB v.*
7 *PUC*, 128 Or App at 660 (public interest “may be a relevant factor in determining whether
8 material that has become a part of a judicial record should remain subject to a protective order”);
9 *In the Matter of the Request by US West*, OPUC Docket UM 960, Order No. 00-002 at 14 (2000)
10 (“the Commission concludes that the public interest in access to USWC’s service quality
11 performance data clearly outweighs the company’s asserted confidentiality interest in the data”).

12 The public interest weighs in favor of granting Wah Chang’s motion even if the
13 information is a trade secret. First, there is a general public interest in the openness of
14 Commission proceedings. Indeed, the Commission’s hearings must be open to the public.
15 ORS 756.521; see *Re Pacific Northwest Bell Telephone Company*, OPUC Docket UF 3107,
16 Order No. 75-275 at 4 (1975) (“[t]here is a further interest in public disclosure. ORS 756.521
17 requires that ‘all hearings shall be open to the public * * * ’”).

18 Second, there is a public interest in access to information about PacifiCorp’s trading
19 activities during the 2000-2001 crisis. The crisis was a time of exceedingly high and volatile
20 wholesale electricity prices, and PacifiCorp’s retail customers paid higher rates because of the
21 higher wholesale prices. See *Industrial Customers of Northwest Utilities v PUC*, 196 Or App 46,
22 100 P3d 1072 (2004) (affirming Commission order permitting PacifiCorp to amortize deferred
23 excess power costs incurred in short-term wholesale markets).

24 Enron’s role in trading schemes during the crisis is well known and is documented in
25 Mr. McCullough’s testimony, see, e.g., WC/800 at 34-35, 48-53, 104-109 (Direct Testimony of
26 Robert McCullough), but PacifiCorp’s involvement is not well known. Wah Chang’s testimony

1 and exhibits show that [**REDACTED**
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3] . See, e.g.,
4 WC/800 at 2-4, 14-15, 43-47, 55-56, 82-97, 103-104, 111-112 (Direct Testimony of Robert
5 McCullough).

6 Public access to this information is in the public interest, particularly in light of
7 PacifiCorp’s public proclamations of innocence. Most recently, a PacifiCorp spokesman was
8 paraphrased and quoted in the *Portland Tribune* as saying that “any deals with Enron were made
9 to ‘balance the needs of’ PacifiCorp’s customers” and that “the company never engaged in
10 ‘trading for trading’s sake.’ ” Nick Budnick, *Different Utility, Similar Allegations*, PORTLAND
11 TRIBUNE, Tues., Feb. 7, 2006, at A6 (copy attached as Attachment 3).

12 This assertion is [**REDACTED**
13] . PacifiCorp trader Marlin Green
14 testified [**REDACTED**
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16 [**REDACTED**

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WC/1006 at 28–29.

Similarly, John Apperson, PacifiCorp’s director of energy trading, testified:

[**REDACTED**

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WC/10004 at 40–41. (*Emphasis added.*)

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WC/1004 at 57–58.

The public interest requires that [**REDACTED**

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#18

BEFORE THE PUBLIC UTILITY COMMISSION

TRUE COPY OF ORIGINAL

OF OREGON

ADMINISTRATIVE HEARINGS

UM 1002

WAH CHANG,

Petitioner,

v.

PACIFICORP,

Respondent.

PROTECTIVE ORDER

DISPOSITION: MOTION GRANTED

On January 26, 2001, Wah Chang and PacifiCorp filed a Stipulated Motion for a Protective Order. They assert that material included within the scope of discovery in this proceeding contains confidential and proprietary information. Wah Chang and PacifiCorp state that the release of confidential information could disadvantage them in their commercial dealings with entities not participating in this proceeding, resulting in monetary loss to them and their customers. Both parties have taken stringent measures to safeguard the confidentiality of information that may need to be disclosed in this proceeding.

I find that good cause exists to issue a Standard Protective Order, attached as Appendix A. OAR 860-012-0035(1)(k). Under the terms of that order, a party may designate as confidential any information it believes falls within the scope of ORCP 36(C)(7). Once designated as confidential, the information may be disclosed only to "qualified persons" associated with parties that have agreed to be bound by the terms of the Protective Order by signing the signatory page set forth in Appendix B.

Paragraph 3 of the Protective Order establishes two categories of "qualified persons." The first category, set forth in subsections (a) through (d), includes the authors of the confidential material, the Commission or its Staff, and counsel of record for a party or persons directly employed by counsel. This group of persons is entitled to review confidential information without the need to give notice to the party desiring confidentiality or execute an additional statement agreeing to be bound by the terms of the order. As noted above, however, a

party must sign the signatory page before anyone associated with the party, including its counsel, may review the confidential material.

Subsections (e) through (g) of paragraph 3 set forth the second category of qualified persons. These include unaffiliated party experts, persons approved by the party desiring confidentiality, and persons designated as qualified by Commission order. As a prerequisite to gaining access to confidential information, this second category of qualified persons must execute a consent to be bound. Prior to disclosing confidential information to an unaffiliated expert, the party seeking to disclose the information must also notify the party desiring confidentiality. See paragraphs 7 and 8.

Paragraph 9 provides the procedures for when a party desires to disclose information to a person who is not qualified under paragraph 3. In such circumstances, the party must request permission from the party desiring confidentiality and provide certain information, including the identity of the unqualified person and the specific reasons why disclosure is necessary. If the party desiring confidentiality fails or refuses to grant the request, the party seeking disclosure may file a motion to qualify the person by Commission order.

All persons who are given access to confidential information have the duty to monitor their own conduct to ensure their compliance with the Protective Order. Such persons shall not use or disclose the information for any purpose other than the purposes of preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the confidential information secure.

ORDER

IT IS ORDERED that the Standard Protective Order, attached as Appendix A, shall govern the disclosure of confidential information in this case.

Made, entered, and effective FEB 02 2001, pursuant to
OAR 860-012-0035(h)(k)



Lowell Bergen

Lowell Bergen
Administrative Law Judge

This order may be appealed to the Commission pursuant to OAR 860-014-0091. The appeal should be in the form of a motion. See OAR 860-013-0031.

UM 1002

APPENDIX A

STANDARD PROTECTIVE ORDER

Scope of this Order-

1. This order governs the acquisition and use of "confidential information" in this proceeding.

Definitions-

2. "Confidential Information" is information that falls within the scope of ORCP 36(C)(7) ("a trade secret or other confidential research, development, or commercial information").

3. A "qualified person" is an individual who is:

- a. The author(s), addressee(s), or originator(s) of the confidential information;
- b. The Commissioner(s) or the Commission staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record;
- e. An unaffiliated expert retained by a party;
- f. A person approved by the party desiring confidentiality (pursuant to paragraph 9); or
- g. A party designated a qualified person by order of the Commission (pursuant to paragraph 9).

Designation of Confidential Information-

4. A party providing confidential information shall inform other parties that the material has been designated confidential by placing the following legend on the information:

CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER

To the extent practicable, the party shall designate only the portions of the document that fall within ORCP 36(C)(7).

5. A party may designate as confidential any information previously provided by giving written notice to the other parties. Parties in possession of newly designated confidential information shall, when feasible, ensure that all copies of the information bear the above legend to the extent requested by the party desiring confidentiality.

Disclosure of Confidential Information-

6. Confidential information shall not be disclosed to any person other than a "qualified person," as defined in paragraph 3. When feasible, confidential information shall be delivered to counsel. In the alternative, confidential information may be made available for inspection and review by qualified persons in a place and time agreeable to the parties or as directed by the presiding officer.

7. Before reviewing confidential information, a person qualified under paragraphs 3(e) through 3(g) must:

- a. Read a copy of this Protective Order;
- b. Execute a statement acknowledging that the order has been read and agreeing, in return, for access to the information, to be bound by the terms of the order; and
- c. Date the statement.

Counsel shall, upon request, deliver a copy of the signed statement to the party desiring confidentiality.

8. Prior to disclosing confidential information to an unaffiliated expert qualified under paragraph 3(e), the party seeking to disclose the information must notify the party desiring confidentiality, in writing, at least three business days prior to the intended disclosure. The notice shall state:

- a. The exact nature of the information to be disclosed;

- b. The identity of the unaffiliated expert; and
 - c. Any past, present, or anticipated future affiliation between the expert and any party to the proceeding.
9. When a party desires to disclose confidential information to an unqualified person, the party must, in writing, request permission from the party desiring confidentiality. The request must state:
- a. The exact nature of the information to be disclosed;
 - b. The identity of the person(s) to whom it would be disclosed;
 - c. The nature of any past, present, or anticipated future affiliation between the person(s) and any party to this proceeding; and
 - d. The specific reasons why disclosure is necessary.

If the party desiring confidentiality agrees to disclosure, the person to receive the information will become qualified under paragraph 3(f) for the information identified in the request. If a party requests permission to disclose confidential information to an unqualified person, and the party desiring confidentiality fails to grant permission in writing within three business days, the party requesting disclosure may move to qualify the person under paragraph 3(g). The motion must contain the information set forth in the original request. The information shall not be disclosed pending the presiding officer's ruling on the motion.

Preservation of Confidentiality-

10. All persons who are given access to any confidential information by reason of this order shall not use or disclose the confidential information for purposes of business or competition, or for any purpose other than the purposes of preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the confidential information secure.

With the exception of Commission staff, parties may not copy, microfilm, microfiche, or otherwise reproduce confidential information without the written consent of the providing party.

Information Given to the Commission-

11. Confidential Information that is: (a) filed with the Commission or its staff; (b) made an exhibit; (c) incorporated into a transcript; or (d) incorporated into a pleading, brief, or other document, shall be separately bound and placed in a sealed envelope or other appropriate container. To the extent practicable, only the portions of a document that fall within ORCP 36(C)(7) shall be placed in the envelope container. The envelope/container shall bear the legend:

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

12. The Commission's Administrative Hearings Division shall store the confidential information in a locked cabinet dedicated to the storage of confidential information.

Duration of Protection-

13. The confidentiality of confidential information shall be preserved until the Commission, by order, terminates the protection conferred by this order.

Destruction After Proceeding-

14. Counsel of record may retain memoranda or pleadings containing confidential information to the extent reasonably necessary to maintain a file of this proceeding. The information retained may not be disclosed to any person. Any other person retaining confidential information must destroy or return it to the party desiring confidentiality within 90 days after final resolution of this proceeding unless the party desiring confidentiality consents, in writing, to retention of the confidential information. This paragraph does not apply to the Commission or its staff.

Appeal to the Presiding Officer-

15. If a party disagrees with the designation of information as confidential, the party shall contact the designating party and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute, the party desiring to use the information may move for exclusion of the information from the protection conferred by this order. The motion shall:

- a. Specifically identify the contested information; and
- b. Assert that the information does not fall within ORCP 36(C)(7).

The party resisting disclosure has the burden of showing that the challenged information falls within ORCP 36(C)(7). If the party resisting disclosure does not respond to the motion within 10 days, the challenged information shall be removed from the protection of this order.

The information shall not be disclosed pending a ruling by the Commission or the presiding officer on the motion.

Additional Protection-

16. A party desiring additional protection may move for any of the remedies set forth in ORCP 36(C). The motion shall state:

- a. The parties and persons involved;
- b. The exact nature of the information involved;
- c. The exact nature of the relief requested; and
- d. The specific reasons the requested relief is necessary.

The information need not be released and, if released, shall not be disclosed pending the Commission's ruling on the motion.

SIGNATORY PAGE

Consent to be Bound-

This order governs the use of "confidential information" in this proceeding.

I have read this Order, including Appendix A, and agree to be bound by its terms.

Signature & Printed

Date

Party

Signature & Printed

Date

Party

Signature & Printed

Date

Party

Signature & Printed

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Party

Signature & Printed

Date

Party

COPYFEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 5, 2002

Docket No. PA02-2-000

To: All Jurisdictional Sellers and All Non-jurisdictional Sellers in the West

On February 13, 2002, the Commission issued an order directing Staff to conduct a fact-finding investigation into whether any entity, including Enron Corporation (through its affiliates or subsidiaries), manipulated short-term prices in electric energy or natural gas markets in the West or otherwise exercised undue influence over wholesale prices in the West, for the period January 1, 2000, forward. In Ordering Paragraph (B) of the February 13, 2002, order, the Commission empowered the General Counsel or her designee, with respect to any matters relevant to that investigation, to gather information and to require the production of any contracts, agreements or other records, among other things.

In the course of conducting this fact-finding investigation, Staff reviewed the wholesale sales information filed by jurisdictional sellers in their quarterly reports. Staff determined that the information contained in the reports is not useful for the fact-finding investigation. Moreover, the information is incomplete as to the markets in the West because non-jurisdictional sellers of wholesale energy do not file quarterly reports.

Accordingly, pursuant to the February 13, 2002, order, I hereby direct all jurisdictional sellers and all non-jurisdictional sellers with wholesales sales in the U.S. portion of the Western Systems Coordinating Council (WSCC) to respond to this information request, as described in more detail below. The failure to respond on the part of any seller to which this information request applies may result in appropriate enforcement action, including the issuance of a subpoena. Any jurisdictional seller that does not have any transactions to report is to report that fact to the e-mail address listed below.

All jurisdictional sellers and all non-jurisdictional sellers with wholesales sales in U.S. portion of the WSCC are required to report on a daily basis certain historical information (specified in an Excel spreadsheet template entitled "Short-term Firm and Non-firm Wholesale Sales Transactions") for all short-term energy transactions in the U.S. portion of the WSCC for calendar years 2000 and 2001. Short-term energy transactions are defined as those transactions for sales or resales with a term of one week or less. The spreadsheet template includes columns for quantity and price data,

0203060097-1

DOCKETED
BAAttachment 2
Page 1 of 3

Docket No. PA02-2-000

-2-

transactions with affiliated buyers, non-affiliated buyers, and by specific, identified delivery points.

All jurisdictional and non-jurisdictional sellers with wholesale sales in the U.S. portion of the WSCC are required to report certain historical information for calendar years 2000 and 2001 (specified in an Excel spreadsheet template entitled "Monthly Firm and Non-Firm Wholesale Sales Transactions") for transactions of capacity and energy in the U.S. portion of the WSCC on a monthly basis. Monthly transactions are defined as all wholesale capacity and wholesale energy sales or resales that were made on a monthly, seasonal, or quarterly basis. The spreadsheet template includes columns for quantity and price data, transactions with affiliated buyers, non-affiliated buyers, and by specific, identified delivery points.

All jurisdictional sellers and all non-jurisdictional sellers with wholesales sales in the U.S. portion in the WSCC are required to report certain historical and projected information (specified in an Excel spreadsheet template entitled "Long Term Capacity and Energy Sales") for all long-term transactions in the U.S. portion of the WSCC, the contracts for which were executed for delivery on or after January 1, 2000. Long-term transactions are defined as those transactions for a term of one year or more. For the date on which any long-term contract was executed, the spreadsheet template includes columns for quantity and price data, term dates, transactions with affiliated buyers, non-affiliated buyers, and by location. Respondents are also required to provide copies of the relevant contracts, together with all supplements and amendments, in electronic (scanned) format.

Responses must be provided no later than April 2, 2002. The three Excel spreadsheets needed to complete this information request are contained in two files posted on the Commission's web page for Docket No. PA02-2-000 (<http://www.ferc.gov/electric/bulkpower/pa02-2/pa02-2.htm>). These spreadsheets are to be completed by respondents and e-mailed to william.booth@ferc.gov. A response that exceeds the row limit for an Excel spreadsheet must be reported in CSV format. If any respondent seeks privileged treatment of the information pursuant to 18 C.F.R. § 388.112 (2001), two versions of each spreadsheet should be e-mailed. Include in the e-mail and in the title of the spreadsheet that the information is "Confidential" or "Not Confidential."

A copy of this information request will be published in the Federal Register and published on the Commission's web page for Docket No. PA02-2-000 (<http://www.ferc.gov/electric/bulkpower/pa02-2/pa02-2.htm>). In addition, it also will be mailed to all the jurisdictional public utilities listed in the appendix to the November 20, 2001, order in Docket No. EL01-118-000.

Attachment 2
Page 2 of 3

Docket No. PA02-2-000

-3-

Respondents seeking assistance with this information request may contact Mr. William Booth at 202-208-0849 (technical) or Ms. Jo Tolley at 202-208-1260 (non-technical).

Sincerely,



Donald J. Gelinas
Associate Director
Office of Markets, Tariffs and Rates

Attachment 2
Page 3 of 3

Different utility, similar allegations

Allegations by NICK BUDNICK
The Tribune

As the City Council mulls whether to lower Portland General Electric's rates, it's a safe bet that another local power provider is watching closely.

Unnoticed by most, PacifiCorp — which delivers power to about one-fourth of Portland under the name Pacific Power — is facing the same allegations that PGE, now is confronting at City Hall.

Just as PGE has been accused of charging local consumers for taxes it never paid — an issue now being looked at by City Hall — so has PacifiCorp. In fact, there will be a hearing Thursday in the courtroom of Multnomah County Circuit Judge John Withnauer, who earlier heard a similar case against PGE.

City Commissioner Randy Legrand is also demanding to know whether PGE engaged in

deals with Extron Corp. that inflated the rates paid by Portlanders. But PacifiCorp has already admitted participating in the same types of deals with Extron during the 2000-01 energy crisis, raising the question of whether the council should be looking at PacifiCorp's rates too.

"I'm sure," says Dan Meek, who with fellow attorney Linda Williams is suing PacifiCorp. Meek and Williams are consumer advocates who earlier sued PGE, leading to a settlement in which PGE agreed to refund Multnomah County customers \$10 million for seven years of the county's business income tax that the company charged customers for but never paid.

Meek, whose PacifiCorp lawsuit is very similar to the one he says it appears that PacifiCorp did the same thing as PGE. But

See POWER / Page 6

A6 NEWS

Power: Utility says it acted properly

From page 1

Meek says he can't determine the extent of PacifiCorp's overcharges because the utility has not submitted the information that he requested in court under the rules of pretrial discovery.

"The difference is PGE answers discovery," he says. "PacifiCorp doesn't answer discovery."

PacifiCorp spokesman Dave Kravame defends his utility's record, saying that any deals with Extron were made to "balance the needs of" PacifiCorp customers. He adds that the company never engaged in "trading for trading's sake."

In documents submitted to the Federal Energy Regulatory Commission, PacifiCorp admitted being in the intermediary in "approximately 76" improper Extron transactions spread over more than 100 days — as compared to the 17 days of transactions that PGE conceded were questionable. But, like PGE, PacifiCorp said it did not realize the transactions were improper.

Ironically, in 2003, PGE asked a FERC judge to issue a subpoena to PacifiCorp asking about its trades with Extron during the energy crisis. The PGE filing claimed that PacifiCorp actually engaged in 45,000 transactions with Extron that were similar to what PGE did. The FERC judge denied the request.

\$6 million owed residents?

Separate from the issue of Extron is the question of taxes it is charging its customers for. The lawsuit against PacifiCorp by Meek and Williams alleges that PacifiCorp overcharged customers while adding a Multnomah County income tax surcharge



Attorney Dan Meek has filed lawsuits against PGE and PacifiCorp alleging the companies kept tax money pocketed from customers.

Attorney Dan Meek has filed lawsuits against PGE and PacifiCorp

to its county customers' bills. Following a Securities and Exchange Commission suit in 2004 that found some improper overcharges, PacifiCorp admitted a filing with the Oregon Public Utility Commission in October, 2004, to customers.

But Meek says the overcharges go back further, and that the company has failed to reimburse customers no longer served by Pacific Power, and also failed to pay interest. He says Multnomah County residents may be owed about \$6 million.

In court documents, PacifiCorp defended its partial refund of overcharges as sufficient, saying that to do more would be impractical. As PacifiCorp executive Bernard Bodony wrote in an affidavit, "it would have been expensive, burdensome and inherently inaccurate to refund over-

Business group claims in

The conservative National Federation of Independent Business, led by Dan Meek, says in an alert on its Web site that PacifiCorp and its parent company, ScottishPower, "collected between \$70-\$80 million in income taxes from customers per year. It

"The difference is PGE answers discovery," says Dan Meek, consumer advocacy attorney.

is PGE answers discovery?

Meek says the question not covered in his lawsuit is whether PacifiCorp overcharged Oregonians for state and federal taxes. PacifiCorp admitted a filing with the Oregon Public Utility Commission in October, 2004, to customers. The utility claimed that it did not. But Meek and consumer advocates questioned PacifiCorp's refusal to follow PUC rules in doing the calculations that answered that question. PacifiCorp has questioned the legality of rules written by the PUC based on legislation. He says Multnomah County residents may be owed about \$6 million.

is unclear how much of this amount, if any, was paid to taxing authorities."

The alert added that Multnomah County residents in the process of purchasing PacifiCorp want to continue the practice of charging customers in their rates for taxes they never will pay to units of government.

To some, like Meek, the revelations that PacifiCorp may have charged Portlanders for taxes not paid, and that it also was a partner in deals that benefited Extron, show that the city would be justified in looking at setting PacifiCorp rates, not just PGE's. "Others, it just underlines that if Portland is going to get into the utility regulation business, city officials are going to have their hands full."

Withnauer will hear the arguments Thursday by Meek, Williams and PacifiCorp representatives. If PacifiCorp loses, it will be required to turn over documents that shed more light on its internal practices. It was the similar disclosure by PGE to Meek that in part led to the city's current effort to decide whether PGE's rates should be lowered. A little-known state law allows municipalities to do so, though PGE is expected to fight any such move in court.

Meek says the city's current priority, PGE, is appropriate since in his opinion the utility has been overcharging customers more than PacifiCorp has. But he says that since PacifiCorp seems to be on its way to becoming part of Mid-American, the opportunities for falling to pay taxes it charges for are greater than now exist with PGE. PGE is in the process of leaving Extron to become an independent investor-owned utility.

nichols@tribune.com

Portland Tribune Tuesday, February 7, 2006

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4 **BEFORE THE PUBLIC UTILITY COMMISSION**
OF THE STATE OF OREGON

5 **UM 1002**

6 Wah Chang,

Petitioner,)

7 v.)

8 PacifiCorp,

Respondent.)

**AFFIDAVIT OF ROBERT
McCULLOUGH IN SUPPORT
OF WAH CHANG'S MOTION
TO EXCLUDE INFORMATION
FROM PROTECTIVE ORDER**

9 _____
10 STATE OF OREGON)

11 County of Multnomah)

ss.

12 I, ROBERT MCCULLOUGH, being first duly sworn, depose and say:

13 1. I make this Affidavit in support of Wah Chang's Motion to Exclude Information from
14 Protective Order.

15 2. I am an expert witness on behalf of Wah Chang in this proceeding. My curriculum
16 vitae has been filed by Wah Chang as Exhibit WC/801.

17 3. The document labeled "Direct Testimony of Robert McCullough dated December 15,
18 2005, corrected January 3, 2006," filed by Wah Chang as Exhibit WC/800, is my direct
19 testimony in this proceeding.

20 DATED: February 21, 2006.

21 
22 _____
ROBERT MCCULLOUGH

23 SIGNED AND SWORN to before me this 21 day of February, 2006.



25 _____
26 Helen J. Lyman
NOTARY PUBLIC FOR OREGON

My Commission Expires: Nov 5, 2006

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

UM 1002

Wah Chang,)	STIPULATION REGARDING CERTAIN WAH CHANG EXHIBITS
	Petitioner,)	
v.)	
PacifiCorp,)	
	Respondent.)	

1. PacifiCorp designated certain documents produced in response to Wah Chang’s data requests as confidential pursuant to Protective Order No. 01-149.

2. On December 15, 2005, Wah Chang filed its opening testimony and exhibits in this proceeding. Wah Chang filed under seal testimony and exhibits that constituted or included information designated as confidential by PacifiCorp.

3. PacifiCorp has agreed to withdraw its confidentiality designation with respect certain of the exhibits filed under seal.

4. PacifiCorp and Wah Chang agree:

a. PacifiCorp withdraws its designation of the following exhibits as confidential pursuant to Protective Order No. 01-149 (the “Stipulated Exhibits”):

- WC/802 in the redacted form attached hereto as Attachment 1;
- WC/810 in the redacted form attached hereto as Attachment 2;
- WC/816;
- WC/817;
- WC/901;

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WC/1128;


WC/1129.

b. Wah Chang may, but is not obligated, to refile the Stipulated Exhibits unsealed and without a confidentiality designation. Regardless of whether Wah Chang refiles the Stipulated Exhibits, the Stipulated Exhibits shall be treated for all purposes as though they had not been filed under seal.

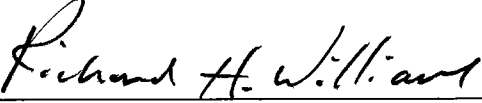
c. This Stipulation shall not prejudice Wah Chang's right to challenge PacifiCorp's designation of other documents as confidential pursuant to Protective Order No. 01-149 or PacifiCorp's redaction as stated above of WC/802 and WC/810. Nor shall this Stipulation prejudice PacifiCorp's right to defend its designation of other documents as confidential pursuant to Protective Order No. 01-149 or its redaction as stated above of WC/802 and WC/810.

DATED: February 22, 2006.

PERKINS COIE LLP

By 
By Lawrence H. Reichman, OSB No. 86083
Of Attorneys for Respondent PacifiCorp

LANE POWELL PC

By 
Richard H. Williams, OSB No. 72284
Of Attorneys for Petitioner Wah Chang

Docket UM 1002
WC/802
Witness: McCullough

BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

WAH CHANG

E-mail from Todd Carpenter to Gary Eldridge et al., re , “flipping”
At COB, Dated June 24, 2000

December 15, 2005

Exhibit 3
Affidavit of Stanley K. Watters
May 22, 2002

Woodruff, Adam

From: Carpenter, Todd
Sent: Saturday, June 24, 2000 8:37 PM
To: 'Gary Eldridge'; Kroger, Paul
Cc: Brower, Chuck; Maxfield, Gregory; Greenhalgh, Jean; Carpenter, Todd; Green, Marlin;
Rogers, John A; Caudill, Michael; Perkins, John
Subject: RE: FW: Swift ET, "flipping" at COB...

-----Original Message-----

From: Gary Eldridge [mailto:geldrid@hotmail.com]
Sent: Saturday, June 24, 2000 8:25 PM
To: Paul.Kroger@PacifiCorp.com
Cc: Chuck.Brower@PacifiCorp.com; Greg.Maxfield@PacifiCorp.com;
Jean.Greenhalgh@PacifiCorp.com; Todd.Carpenter@PacifiCorp.com;
Marlin.Green@PacifiCorp.com; John.A.Rogers@PacifiCorp.com;
Michael.Caudill@PacifiCorp.com; John.Perkins@PacifiCorp.com
Subject: Re: FW: Swift ET, "flipping" at COB...

Hi all,

Paul, A couple things as I am reading the email here in Vegas.

2) Regarding the Redding buy/sell arrangement, I personally came to this agreement with Lyle at the Seattle meeting back in April. We have already been accomplishing this with MID quite a bit, and Redding indicated they would be very interested in this service. Email was sent at that time to everyone (including Paul and Jim) detailing this agreement. While the price is definitely negotiable and I did not set a fixed price (nor would I), I think it benefits both parties for the small amount of work needed to put the buy in one account and the sell in another. I have had mixed responses back from BPAT on whether they even want to know about this transaction and only comes up if it a question in raised by the ISO or Redding to BPAT, giving them a hint that something must be going on. Unless there is some problem in the after the fact world, since it is a net zero on the 3rd AC, its best left up to each trader to do what they think is best. Again, the price is negotiable, but it really helps out Redding and is only a little work for us given the \$2 or \$3 per mwh in revenue that it generates.

3) In that same vein, I have reached a similar real-time agreement with EPMI a couple of days ago in LA at the WSCC class. Some time ago, I started doing business with Enron in the same way, buying from them at COB and reselling it at FC with a \$10 spread. This can of course can only be accomplished when COB; IPC Transmission, Path C, and FC is all either unloaded and we are not negatively impacted in any way, including

financially. It helped EPMI get energy from the NW or ISO to EPE at FC to serve their load at the times during the day that EPMI takes over the EPE marketing responsibility, and helped us out by unloading our rights at COB so we could sell more into the ISO. Of course, I didnt tell them that it saved us \$6 in BPAT charges, or they would want to factor that into their calculations. Anyway, same situation applies as with Redding. They would like to accomplish more of this in upcoming months, but we will do it only to the extent it makes economic sense and we have plenty of transmission room to do it. The price spread has been \$10 in the past, but is certainly negotiable and comes at a premium during periods of high stress and high market prices. I have already sent an email to Chuck and Mike regarding this agreement, and now the rest of you are aware in case this comes up and you dont have a clue what they are talking about. The hope from Enron is that this can become a fairly standard product, however I dont think it will happen as often as they would like. However, set the spread for whatever you think is best.

Of course, all these buy/sells may go away if BPAT ever insists on unidirectional scheduling practices without benefits of nets. BPAT did not indicate any change of current procedure when this was brought up at the WSCC class over the last few days.

Guess thats it for now. Just trying to get us closer to a bonus.

Gary

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>From: "Eldridge, Gary" <Gary.Eldridge@PacifiCorp.com>
>To: geldrid@teleport.com
>Subject: FW: Swift ET, "flipping" at COB...
>Date: Thu, 22 Jun 2000 16:59:46 -0700
>
>
>
> > -----
> > From: Kroger, Paul
> > Sent: Thursday, June 22, 2000 4:59:46 PM
> > To: Chuck (Charles) Brower; Gary Eldridge; Greg (Gregory) Maxfield;
> > Jean
> > Greenhalgh; John Rogers; Jp (John) Perkins; Marlin Green; Michael
> > Caudill;
> > Patti Day; Todd Carpenter
> > Subject: Swift ET, "flipping" at COB...
> > Auto forwarded by a Rule
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Docket UM 1002
WC/810
Witness: McCullough

BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON

WAH CHANG

E-mail from Gary Eldridge re Seattle Scheduler Meeting Notes--#2
Dated May 18, 2005

December 15, 2005

Eldridge, Gary

From: Gary Eldridge [geldrid@teleport.com]
Sent: Saturday, May 18, 2002 3:54 PM
To: Gary.Eldridge@PacifiCorp.com
Cc: geldrid@teleport.com; geldrid@hotmail.com
Subject: FW: Seattle Scheduler Meeting Notes - #2

-----Original Message-----

From: Eldridge, Gary [mailto:Gary.Eldridge@PacifiCorp.com]
Sent: Thursday, April 13, 2000 1:33 PM
To: geldrid@teleport.com
Subject: FW: Seattle Scheduler Meeting Notes - #2

> -----
> **From:** Portouw, Jim
> **Sent:** Thursday, April 13, 2000 1:33:26 PM
> **To:** Eldridge, Gary; Kroger, Paul
> **Subject:** RE: Seattle Scheduler Meeting Notes - #2
> Auto forwarded by a Rule

-----Original Message-----

From: Gary Eldridge [mailto:geldrid@teleport.com]
Sent: Wednesday, April 12, 2000 3:33 PM

PC04554

1200106

To: Paul.Kroger@PacifiCorp.com
cc: Jim.Portouw@PacifiCorp.com; geldrid@teleport.com
Subject: Seattle Scheduler Meeting Notes - #2

Hi,

Below are some interesting items of interest from the Seattle meeting today that I wanted to right to both of you right away.

1) In talking to the Redding real-time lead scheduler, we closed a deal like we have with MID, and they would like to start it asap. So, heads up. They are wanting to unload some or all of their transmission they have contracted with WAPA by selling us energy at COB on the AC, and we will sell them the like amount on their rights at CJ on COI. I told them we would charge them a \$2 spread, the prices being negotiated by either day ahead or real-time traders. We agreed that this would stay in effect until BPA splits out transmission rights and stops allowing nets.

Also they are very interested in trying to find alternate sinks for their 50 mw firm contract. I told him that, contract contingent, day ahead would probably be able to accommodate their needs, as I see a great benefit in unloading our south-bound schedules. On real-time, I communicated that we will not park their energy as they look for a sink or redirect their contract each hour, but we might be able to accommodate their needs on a prescheduled basis. They are tired of the fact that they have to see the entire 50 mw brought into their system and then schedule a purchase back to COB/CJ. I may be missing certain aspects, but it looks like a win-win if we could move POD's by contract. Both of us haven't read the Redding contract for so long that we couldn't remember the specifics on POD. If mutual consent, what do you think about going for this?? As far as the buy/sell, he was real excited about it and they want to start it asap. For us it would be a purchase from WAPA at Malin and a sale to Redding at CJ at \$2.

PC04555

I guess that's enough for now. It was an interesting meeting and one that was a little disconcerting not knowing where everyone fits together. MPC people were trying to canvass for jobs, the ISO was canvassing for hiring a bunch of new people, the NWPP was saying that there doesn't seem to be any role for them coming up in two years, the transmission people saying they will be out of a job in two years and have to go to the NWRTO. There was a big diagram showing where real-time traders at all companies must be split in the future between a "balancing" company and a "marketing" company, and the end of control areas as we know it. There was a common theme that there will be another huge staffing up process in the near future in order to comply with these new FERC rulings coming up. Paul, these are the things that are going to be talked about at the Las Vegas, Dallas, and Chicago meetings. They aren't set in stone, and the WSCC is imploring every company to be present to offer input into the future.

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4 **BEFORE THE PUBLIC UTILITY COMMISSION**
5 **OF THE STATE OF OREGON**

6 **UM 1002**

7 Wah Chang,)
8 Petitioner,)
9 v.)
10 PacifiCorp,)
11 Respondent.)
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**CERTIFICATE OF SERVICE OF
WAH CHANG'S MOTION TO
EXCLUDE INFORMATION FROM
PROTECTIVE ORDER, MEMO-
RANDUM AND AFFIDAVIT IN
SUPPORT OF MOTION AND
STIPULATION RE CERTAIN
EXHIBITS**

I certify that on February 23, 2006, I served (a) Wah Chang's Motion to Exclude Information from Protective Order; (b) Memorandum in Support of Wah Chang's Motion to Exclude Information from Protective Order; (c) Memorandum in Support of Wah Chang's Motion to Exclude Information from Protective Order [Redacted Public Version]; (d) Affidavit of Robert McCullough in Support of Wah Chang's Motion to Exclude Information from Protective Order; and (e) Stipulation Regarding Certain Wah Chang Exhibits upon all parties of record in this proceeding, by hand delivery or by mailing a copy properly addressed with first class postage prepaid, or by to the following parties or attorneys of parties:

PAUL GRAHAM
JASON JONES
DEPARTMENT OF JUSTICE
REGULATED UTILITY &
BUSINESS SECTION
1162 COURT ST NE
SALEM OR 97301-4096
paul.graham@state.or.us
jason.w.jones@state.or.us

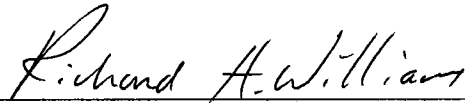
LAWRENCE REICHMAN
PERKINS COIE LLP
1120 NW COUCH ST – 10 FL
PORTLAND OR 97209-4128
lreichman@perkinscoie.com

**PAGE 1 – CERTIFICATE OF SERVICE OF WAH CHANG'S MOTION TO EXCLUDE
INFORMATION FROM PROTECTIVE ORDER, MEMORANDUM AND AFFIDAVIT IN
SUPPORT OF MOTION AND STIPULATION RE CERTAIN EXHIBITS (UM 1002)**

1 PAUL M WRIGLEY
2 PACIFIC POWER & LIGHT
3 825 NE MULTNOMAH STE 800
4 PORTLAND OR 97232
paul.wrigley@pacificcorp.com

5 DATED at Portland, Oregon, this 23rd day of February, 2006.

6 LANE POWELL PC

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8 

9 Richard H. Williams, OSB No. 72284

10 Of Attorneys for Wah Chang
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PAGE 2 – CERTIFICATE OF SERVICE OF WAH CHANG’S MOTION TO EXCLUDE
INFORMATION FROM PROTECTIVE ORDER, MEMORANDUM AND AFFIDAVIT IN
SUPPORT OF MOTION AND STIPULATION RE CERTAIN EXHIBITS (UM 1002)