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January 26, 2018

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PACIFICORP, dba PACIFIC POWER
Request to Initiate an Investigation of Multi-Jurisdictional Issues and
Approve an Inter-Jurisdictional Cost Allocation Protocol
Docket No. UM 1050

Dear Filing Center:

Please find enclosed the Motion of the Industrial Customers of Northwest Utilities to Determine the Rights and Status of its Expert Consultant in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch

Jesse O. Gorsuch

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1050

In the Matter of)	
)	
PACIFICORP, dba PACIFIC POWER)	MOTION OF THE INDUSTRIAL
)	CUSTOMERS OF NORTHWEST
Request to Initiate an Investigation of Multi-)	UTILITIES TO DETERMINE THE
Jurisdictional Issues and Approve an Inter-)	RIGHTS AND STATUS OF ITS
<u>Jurisdictional Cost Allocation Protocol.</u>)	EXPERT CONSULTANT

I. INTRODUCTION

Pursuant to OAR 860-001-0420, the Industrial Customers of Northwest Utilities (“ICNU”) files this Motion to Determine the Rights and Status of its Expert Consultant (“Motion”), Dr. Marc Hellman, in PacifiCorp’s (or the “Company”) Multi-State Protocol (“MSP”) process. ICNU files this motion following informal discussions with PacifiCorp that revealed the Company would not agree to Dr. Hellman’s representation of ICNU in its MSP process. By this motion, ICNU requests the following: (1) a finding that Dr. Hellman may represent ICNU, and receive confidential information, in the MSP Workgroup meetings; and (2) Commission permission, pursuant to OAR 860-001-0330(2), for Dr. Hellman to appear as a witness on behalf of ICNU in the above-referenced docket.

II. BACKGROUND

Dr. Hellman is the former Administrator of Energy Rates, Finance and Audit Division for Commission Staff.^{1/} His role as Administrator ended on or about September 22,

^{1/} Exh. A, Affidavit of Dr. Marc Hellman ¶ 1.

2017.^{2/} Since that time, Dr. Hellman has been rehired by the Commission on a limited basis to provide staff training and similar tasks.^{3/} Dr. Hellman does not work or advise on any MSP-related matters in his current role.^{4/} Dr. Hellman has committed to resign his current role with Staff if the Commission considers it to conflict with his representation of ICNU.^{5/}

During his time as Administrator, Dr. Hellman did work on MSP issues, including attending Workgroup meetings and making recommendations on Staff policy related to MSP.^{6/} Dr. Hellman has also filed testimony in UM 1050, but not since 2004, when PacifiCorp requested approval in Oregon of the Second Revised Protocol.^{7/} PacifiCorp currently allocates the costs of its six-state system under the 2017 Protocol.

After Dr. Hellman's employment as Administrator with Staff ended, ICNU, through its counsel, retained him to consult on various matters, including MSP.^{8/} ICNU's attorney then contacted PacifiCorp to determine whether Dr. Hellman needed to sign a confidentiality agreement in connection with the MSP process.^{9/} PacifiCorp responded by providing a letter agreement governing non-disclosure of confidential information produced in the MSP Workgroups ("NDA").^{10/} Dr. Hellman signed and returned this letter agreement on January 2, 2018.^{11/} Subsequently, PacifiCorp contacted ICNU and stated its position that the distribution of confidential information to Oregon parties in the MSP process was governed by

^{2/} Id.

^{3/} Id. ¶ 5

^{4/} Id.

^{5/} Id. ¶ 6.

^{6/} Id. ¶ 2.

^{7/} Id.; Docket No. UM 1050, Staff/400 (Aug. 12, 2004).

^{8/} Exh. A, Affidavit of Dr. Marc Hellman ¶ 4.

^{9/} Exh. B, Email from T. Pepple to J. Barrett (Jan. 2, 2018).

^{10/} Exh. C, Email from T. Weston to T. Pepple (Jan. 2, 2018).

^{11/} Exh. D, M. Hellman Executed NDA. The NDA erroneously identifies 2017 as the year.

the protective order issued in UM 1050, Order No. 15-416, and therefore that it “does not consent to the NDA submitted by [Dr.] Hellman on behalf of ICNU.”^{12/} PacifiCorp further stated that it “does not consent to [Dr.] Hellman’s participation in the MSP due to his obvious conflict based on his prior position with the OPUC” and that “PacifiCorp will not send [Dr.] Hellman any confidential information as part of MSP.”^{13/} Dr. Hellman, therefore, has effectively been precluded from attending MSP Workgroup meetings on behalf of ICNU.

III. ARGUMENT

PacifiCorp’s decision to prevent Dr. Hellman from viewing confidential information appears to be based on one or both of the following: (1) that the MSP Workgroup process is part of UM 1050, and OAR 860-001-0330 prevents Dr. Hellman from appearing on behalf of ICNU in this docket; and (2) Dr. Hellman has a conflict of interest in representing ICNU after having represented Commission Staff in the MSP process. PacifiCorp is mistaken on both theories, as explained below. Moreover, given Dr. Hellman’s extensive knowledge of the MSP process and history, ICNU believes the Commission will benefit from his participation in those meetings and in any future substantive process held in this Docket. Therefore, ICNU moves not only for a ruling that Dr. Hellman may represent ICNU in MSP Workgroup meetings and receive confidential information, but that he may also testify as a witness for ICNU in this Docket if and when testimony is required.

^{12/} Exh. E, Email from M. McVee to T. Pepple (Jan. 17, 2018).

^{13/} Id.

A. The MSP Workgroup meetings are not part of Docket No. UM 1050.

The Company asserts that it “does not consent to the NDA” Dr. Hellman signed (despite the fact that the Company itself provided it to him for the explicit purpose of sharing confidential information in the MSP Workgroup process), and that the relevant confidentiality agreement is the Protective Order in UM 1050.^{14/}

ICNU does not dispute that parties have viewed confidential information in the MSP Workgroup process under the UM 1050 protective order. The reason for this, though, as ICNU understands it, is merely one of convenience. Parties had already executed a protective order covering MSP-related confidential information, so reviewing and executing a separate NDA was unnecessary. The reverse is also true – because Dr. Hellman has signed an MSP-specific NDA, there is no reason to require him also to sign the Protective Order in this docket to view confidential information produced in the MSP Workgroup process.

PacifiCorp is using the Protective Order in UM 1050 as a hook to attempt to bring the MSP Workgroup meetings within the scope of this docket, which would then put OAR 860-001-0330 into play. That rule provides in relevant part:

- (1) A former Commission employee may not appear on behalf of other parties in contested case or declaratory ruling proceedings in which the former employee took an active part on the Commission’s behalf.
- (2) Except with the Commission’s written permission, a former Commission employee may not appear as a witness on behalf of other parties in contested case proceedings in which the former employee took an active part on the Commission’s behalf.

^{14/} Id.

This rule is plainly inapplicable to the MSP Workgroup meetings. By representing ICNU in these meetings, Dr. Hellman is not “appear[ing]” in UM 1050 on behalf of ICNU, either as a witness or otherwise. Dr. Hellman is not associated in any way with ICNU in this docket.

Moreover, the MSP Workgroup meetings are not part of any contested case. A “contested case” is defined as, among other things, “a proceeding before an agency: (A) in which the individual legal rights, duties or privileges of specific parties are required by statute ... to be determined only after an agency hearing at which such specific parties are entitled to appear and be heard.”^{15/} Further, Commission decisions in contested cases must be based exclusively on a formal record of the evidence.^{16/}

MSP Workgroup meetings do not meet these requirements. They are not a “proceeding before an agency.” Nor can any legal rights, duties or privileges be determined in these meetings. Finally, none of the substance of the meetings is part of any official Commission record. MSP Workgroup meetings are informal processes that may eventually *lead* to a contested case proceeding in UM 1050, but are not themselves part of a contested case.

PacifiCorp itself appears to agree with this. The Company is a signatory to the Multi-State Process Second Amended and Restated Intervenor Funding Agreement (“MSP IFA”). That agreement provides funds to supplement certain parties’ (including ICNU’s) costs to participate in MSP Activities.^{17/} “MSP Activities” is defined in the MSP IFA as “participation during the Term of this Agreement in MSP related activities *apart from participation in any dockets or other formal proceedings before the Commission, including issues addressed in*

^{15/} ORS 183.310(2)(a).

^{16/} ORS 183.417(9), 183.450(2).

^{17/} MSP IFA Art. 4.1.

docket UM 1050 related to PacifiCorp’s inter-jurisdictional cost allocation.”^{18/} The definition goes on to specify that “MSP Activities *include*, but are not limited to, activities described in Section XIII of the [2017 Protocol].”^{19/} The referenced section of the 2017 Protocol explicitly identifies both the Commissioner Forum and MSP Workgroup activities.^{20/}

Thus, the fact that the protective order in UM 1050 has governed confidential information in the MSP Workgroup process does not alone demonstrate that this process is part of a contested case. The Workgroups do not meet the requirements for contested case proceedings and, as the MSP IFA shows, has been understood by all parties, including PacifiCorp, to be separate and apart from the Commission’s dockets and contested case processes. Dr. Hellman cannot violate OAR 860-001-0330 by attending MSP Workgroup meetings for ICNU.^{21/}

B. PacifiCorp has not provided a valid basis to prevent Dr. Hellman from representing ICNU in the MSP process.

As a further basis to withhold confidential information from Dr. Hellman, and as an apparent basis to object more generally to his participation in the MSP Workgroup process, PacifiCorp also asserts that Dr. Hellman has an “obvious conflict” of interest in representing ICNU.^{22/} Again, ICNU disagrees.

^{18/} Id., Art. 1(g) (emphasis added).

^{19/} Id.

^{20/} Docket No. UM 1050, Exh. PAC/101, Dalley/11-12 (Dec. 30, 2015).

^{21/} Dr. Hellman is prepared to execute the Protective Order in this Docket if the Commission determines that this is necessary for him to receive confidential information in the MSP Workgroup process. ICNU has refrained from doing so at this point, however, in the event the Commission determines that Dr. Hellman may not appear as a witness for ICNU under OAR 860-001-0330 and that signing the protective order in this Docket would violate this rule. ICNU does not agree that merely signing a protective order constitutes an “appearance” for a party in a docket, and argues below that Dr. Hellman should, in any case, be permitted to appear as a witness for ICNU in this docket. Nevertheless, ICNU has not filed a protective order for Dr. Hellman at this time in an abundance of caution.

^{22/} Exh. E.

First, the identification and provision of confidential information, on the one hand, and the existence of a conflict of interest on the other are entirely distinct concepts. NDAs and Protective Orders exist to prevent the disclosure primarily of competitively sensitive information so that the utility will not be disadvantaged in the competitive market.^{23/} By consulting for ICNU, Dr. Hellman is not in a position to reveal confidential information to PacifiCorp's competitors. ICNU represents PacifiCorp's customers. ICNU's consultants routinely execute Protective Orders and NDAs to access confidential information and no utility raises a concern of competitive harm simply because the consultant is working for ICNU.

Second, PacifiCorp has not articulated what conflict of interest exists here. Oregon statutes identify both actual and potential conflicts of interest. An "actual conflict of interest" is "any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated"^{24/} A "potential conflict of interest" is defined as "any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated"^{25/} Two elements of both definitions are missing here. First, Dr. Hellman is acting as a consultant for ICNU, a private, nonprofit, organization, not as a "public official." Second, Dr. Hellman's engagement for ICNU on this matter does not put him in a position to incur any "private pecuniary benefit," either for

^{23/} See OAR 860-001-0080; Or. R. Civ. Pro. 36(C)(7); ORS 192.501.

^{24/} ORS 244.020(1).

^{25/} ORS 244.020(13).

himself or for any relative or associated business, based on any decision or recommendation he makes.

ORS 244.040(5) also provides that a “person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.” Again, no one’s “personal gain” is at stake here. Moreover, ICNU is seeking Dr. Hellman’s access to MSP-related confidential information independently of the information Dr. Hellman received as a Staff member. Simply put, there is no legal conflict in Dr. Hellman representing ICNU at MSP Workgroup meetings merely because he previously represented Commission Staff at these meetings.

Dr. Hellman’s objective in representing ICNU at MSP Workgroup meetings is to help ensure that whatever cost-allocation methodology develops out of these meetings is fair to Oregon generally, and to PacifiCorp’s largest Oregon customers specifically. If this is not entirely aligned with Dr. Hellman’s objective when representing Commission Staff in MSP processes, it is at least very close. Certainly, the objectives cannot be said to conflict.

C. The Commission should allow Dr. Hellman to appear on behalf of ICNU in Docket UM 1050.

As noted above, OAR 860-001-0330(2) prohibits a former Commission employee from appearing “as a witness on behalf of other parties in contested case proceedings in which the former employee took an active part on the Commission’s behalf” *unless* the Commission provides written permission.^{26/} Therefore, regardless of whether the Commission determines

^{26/} Subsection (1) of this rule does not include the same exception allowing for Commission permission. However, if Dr. Hellman were to appear on behalf of ICNU in UM 1050, it would be as a witness and,

that Dr. Hellman's participation in the MSP Workgroup meetings constitutes his "appearance" in UM 1050, ICNU requests Commission permission for him to so appear if and when process occurs in this Docket.

ICNU is unaware of a prior case in which the Commission considered whether to allow a former employee to appear in a contested case under OAR 860-001-0330(2), and the rule does not provide a standard for making a determination. The Commission may generally waive any of its rules for good cause shown; thus, the fact that OAR 860-001-0330(2) does not specifically require good cause suggests that some lesser standard is applicable. Nevertheless, whatever the standard, the Commission has good cause to allow Dr. Hellman to appear as a witness in UM 1050.

Dr. Hellman has extensive experience with PacifiCorp's MSP process, and the various Protocols it has used over the years to allocate the costs of its system. This experience and historical knowledge are valuable assets to the Commission when considering any updates or revisions to the current allocation methodology. Dr. Hellman also has extensive experience in utility regulation generally, which will also help inform the Commission's consideration of allocation methodologies. In short, Dr. Hellman will help contribute to a fuller and better record in this docket when the time comes.

Meanwhile, no party will be prejudiced by allowing Dr. Hellman to appear for ICNU in UM 1050. As noted above, Dr. Hellman does not have a conflict of interest with respect to the subject matter of this docket that would compromise the substance of his testimony

therefore, subsection (2) applies. Moreover, even if subsection (1) did apply, OAR 860-001-0000(2) authorizes the Commission to waive any of its rules "for good cause shown." ICNU has good cause here for the reasons discussed below.

or recommendations. Further, while Dr. Hellman has kept well-informed of the MSP process, he last took a litigation position for Staff in UM 1050 in 2004 – fourteen years ago – when the Company was proposing a different allocation methodology than it operates under today. Thus, Dr. Hellman’s prior appearance in this docket for Staff is a technicality. The fact that ICNU must request permission under OAR 860-001-0330 for him to appear in this docket on its behalf is simply a reflection of how long this docket has gone on for; it does not indicate an improper conflict.

In balancing the benefits and disadvantages of allowing Dr. Hellman to appear as a witness in UM 1050 for ICNU, the former clearly outweigh the latter. ICNU therefore requests Commission permission for Dr. Hellman to appear as a witness for it under OAR 860-001-0330(2) if and when additional process in this docket is scheduled.

IV. CONCLUSION

For the foregoing reasons, ICNU moves for a ruling making the following findings. First, that Dr. Hellman is not precluded from representing ICNU in MSP Workgroup meetings, and from receiving confidential information produced in those meetings; and second, that Dr. Hellman may appear as a witness in this Docket for ICNU.

Dated this 26th day of January, 2018.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple

333 S.W. Taylor, Suite 400

Portland, Oregon 97204

(503) 241-7242

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Of Attorneys for the Industrial Customers of

Northwest Utilities

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1050**

In the Matter of)
)
PACIFICORP, dba PACIFIC POWER) AFFIDAVIT OF DR. MARC M.
) HELLMAN
)
Request to Initiate an Investigation of Multi-)
Jurisdictional Issues and Approve an Inter-)
Jurisdictional Cost Allocation Protocol.)

I, Marc M. Hellman, declare as follows:

1. I served as Administrator of the Energy Rates, Finance and Audit Division for the Oregon Public Utility Commission (“Commission”) and, prior to that, as Administrator of the Commission’s Economic Research and Financial Analysis Division for over 15 years in aggregate. My role as Administrator ended on September 22, 2017.
2. During my term as Administrator, I represented PUC Staff at various of PacifiCorp’s multi-state protocol (“MSP”) meetings as well as testified on behalf of Staff in contested case dockets. I last testified on behalf of Staff in UM 1050 in 2004.
3. Beginning October 2017, through December 2017, my role with the Commission changed to an advisor to Staff on various issues, including PacifiCorp multi-state allocations with the understanding my role would end in 2017 on this latter activity. After being rehired in October 2017, after a brief break in service, I resigned from the PUC effective December 14, 2017. I was then reemployed with the Commission on January 10, 2018.
4. After my role as Administrator ended, I was retained by Davison Van Cleve, P.C. (“DVC”) to consult and act as a witness in certain regulatory matters in states other than Oregon. This included representing the Industrial Customers of Northwest Utilities

("ICNU"). At the end of 2017, I informed DVC that I was no longer an Administrator and that my MSP role at the PUC had changed, and we discussed the option of representing ICNU on MSP-related matters beginning in 2018. I was formally retained by DVC to consult for ICNU on these matters on January 15, 2018.

5. My current position with Staff is a limited-term duration position in a non-management capacity where I am tasked with providing training to new staff, holding seminars on various regulatory issues and advising staff as needed. I do not provide any advice or discuss the matters of PacifiCorp cost allocations. My current position with the Commission is scheduled to end on or about February 15, 2018 and I do not anticipate being rehired again.
6. If the Commission determines (prior to February 15, 2018) that I may not consult for ICNU and hold my current position with the Commission, then I am prepared to resign my position on Commission Staff.

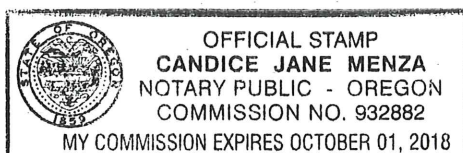
I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

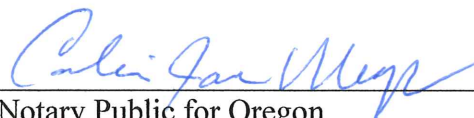
SIGNED this 26 day of January 2018.



DR. MARC M. HELLMAN

SUBSCRIBED AND SWORN to before me this 26th day of January 2018.





Notary Public for Oregon
My Commission Expires: October 1, 2018

From: Tyler C. Pepple
Sent: Tuesday, January 2, 2018 9:01 AM
To: 'Barrett, Jeffrey'
Subject: RE: BRWG follow-up materials, draft January agenda

Hi Jeffrey,

Thanks for sending these to me. I believe Jesse Cowell mentioned that I will be substituting for him on behalf of ICNU. Is there a protective order that I need to sign? Additionally, ICNU has retained Marc Hellman to assist it with the MSP process. Same question for him.

Thanks again!

Tyler

Tyler C. Pepple | Attorney

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DAVISON VAN CLEVE

The message (including attachments) is confidential, may be attorney/client privileged, may constitute inside information and is intended for the use of the addressee. Unauthorized use, disclosure, or copying is prohibited and may be unlawful. If you believe you have received this communication in error, please delete it and call or email the sender immediately. Thank you.

From: Barrett, Jeffrey [mailto:Jeffrey.Barrett@pacificorp.com]

Sent: Tuesday, December 19, 2017 10:00 AM

To: Weston, Ted <Ted.Weston@pacificorp.com>; Allen, Cathie <Cathie.Allen@pacificorp.com>; Powell, Dr. Artie (UT DPU) <wpowell@utah.gov>; Bob Davis - DPU <radavis@utah.gov>; Jenks, Bob (Oregon CUB) <bob@oregoncub.org>; Bob Pomeroy - WIEC <rpomeroy@hollandhart.com>; Brad Mullins - ICNU <brmullins@mwanalytics.com>; Cale Case - WY Senate <cale.case@wyoleg.gov>; Carol Revelt - UPSC <crevelt@utah.gov>; Murry, Cheryl (UT OCS) <cmurray@utah.gov>; Chris Casey - WUTC <ccasey@utc.wa.gov>; Chris Parker - DPU <chrisparker@utah.gov>; Solander, Daniel <Daniel.Solander@pacificorp.com>; Denise Parrish - OCA <denise.parrish@wyo.gov>; Eric Lacey - Nucor <EJL@smxblaw.com>; Lockey, Etta <Etta.Lockey@pacificorp.com>; Dodge, Gary (UIEC) <gdodge@hjdllaw.com>; George Compton - OPUC <george.compton@state.or.us>; Hoffman, Jason <Jason.Hoffman@pacificorp.com>; Hoogeveen, Gary <Gary.Hoogeveen@rockymountainpower.net>; Ivan Williams - OCA <ivan.williams@wyo.gov>; Jason Ball - WUTC <jball@utc.wa.gov>; Jeff Pollock - WIEC <jcp@jpollockinc.com>; Jennifer Gardner - WRA <jennifer.gardner@westernresources.org>; jim.r.smith@monsanto.com; John Burbridge - WPSC <john.burbridge@wyo.gov>; John Crider - OPUC <john.crider@state.or.us>; Zenger, Dr. Joni (UT DPU) <jzenger@utah.gov>; Justin Bieber - UAE <jbieber@energystrat.com>; Justin Jetter - UAG <jjetter@agutah.gov>; Kara Seveland - WPSC <kara.seveland@wyo.gov>; Katie Iverson - Monsanto <kiverson@consultbai.com>; Kumar, Ajay <Ajay.Kumar@pacificorp.com>; Kyle Frankiewich - WUTC <kfrankie@utc.wa.gov>; Lance Kaufman - OPUC <lance.kaufman@state.or.us>; Larsen, Jeff <Jeff.Larsen@pacificorp.com>; Marci Norby - WPSC <marci.norby@wyo.gov>; McDougal, Steven <Steven.McDougal@pacificorp.com>; McVee, Matthew <Matthew.McVee@pacificorp.com>; Michael Goetz - CUB <mike@oregoncub.org>; Beck, Michele (UT OCS) <mbeck@utah.gov>; Morgan Fish - WPSC <morgan.fish@wyo.gov>; Myunghhee Tuttle - DPU <mstuttle@utah.gov>;

Nancy Kelly - WRA <nancy.kelly@westernresources.org>; Neal Townsend - UAE <ntownsend@energystrat.com>; Nik Stoffel - WIEC <nsstoffel@hollandhart.com>; Patricia Schmid - UAG <pschmid@agutah.gov>; Patrick J. Oshie <pjo@dvclaw.com>; Peter Ashcroft - Ut Gov Energy Development (Non-Conf ONLY) <pashcroft@utah.gov>; Peter Richardson - NIPPC <peter@richardsonadams.com>; Randy Budge (rcb@racinelaw.net) <rcb@racinelaw.net>; Ronald L. Williams (ron@williamsbradbury.com) <ron@williamsbradbury.com>; Sarah Wright - UCE <sarah@utahcleanenergy.org>; Shu, Hui <Hui.Shu@pacificorp.com>; Siores, Natasha <Natasha.Siores@pacificorp.com>; Sommer Moser - OPUC <sommer.moser@state.or.us>; Son, Ariel <Ariel.Son@pacificorp.com>; Sophie Hayes - UCE <sophie@utahcleanenergy.org>; Stephen Baron - WIEC (sbaron@jkenn.com) <sbaron@jkenn.com>; Steven Snarr - OCS (stevensnarr@agutah.gov) <stevensnarr@agutah.gov>; Spackman, Terrell <Terrell.Spackman@pacificorp.com>; Terri Carlock <terri.carlock@puc.idaho.gov>; Thor Nelson - WIEC <tnelson@hollandhart.com>; Tom Schooley - WUTC <tschole@utc.wa.gov>; Baldwin, Vicki M. (UIEC) <vbaldwin@parsonsbehle.com>; Tyler C. Pepple <tcp@dvclaw.com>; McVee, Matthew <Matthew.McVee@pacificorp.com>; Kumar, Ajay <Ajay.Kumar@pacificorp.com>

Subject: BRWG follow-up materials, draft January agenda

Last week we committed to sharing PDF versions of the summary tabs from the NPM model right away. We had a large number of additional requests, so we decided to share a handful of other low-hanging-fruit items along with those four tabs. See below for a list of the attachments. Also, per our discussion regarding the Commissioner Forum materials, please expect an editable draft for your input on January 16. See you all in the new year.

- “DraftAgenda_JanBRWG&Forum” is a draft agenda for next month for parties’ use in arranging travel. Details are still subject to change.
- “Dec.12-13PresentationBackup_CONF” addresses the request that we share the spreadsheet model used to produce the results included in last week’s tables. File is marked as confidential.
- “LegacyQFs.situs_MayBRWGslides” responds to the request regarding situs assignment of all existing QFs. This material was provided in May, and has not been updated.
- The four files labeled starting with “SummerPeak,” “SummerOffPeak,” “WinterPeak” and “WinterOffPeak” are the summary tabs pulled from Mike Wilding’s NPM spreadsheet.
- “ValuationSensitivities_JuneBRWGslides” addresses the request that we provide plant valuation sensitivities around market prices. This file includes the variety of sensitivities we shared in June.
- “AllocationFactorDetail” addresses the request that we share all the allocation factors used by the Company, indicating which we propose change, and which stay the same.

From: [Weston, Ted](#)
To: [Tyler C. Pepple](#)
Cc: [Barrett, Jeffrey](#); [McVee, Matthew](#)
Subject: MSP NDA
Date: Tuesday, January 2, 2018 9:19:25 AM
Attachments: [MSP Confidentiality Letter of Agreement.doc](#)

Tyler,

Attached is a copy of the MSP non-disclosure agreement, I would appreciate if you and Marc would sign the NDA and email me a PDF of the executed agreement.

Thank you

Ted Weston
Rocky Mountain Power
Idaho Regulatory Affairs Manager
Work - 801.220.2963
Cell – 801.230.9869
ted.weston@pacificorp.com

Letter of Agreement

PacifiCorp
825 NE Multnomah, Suite 2000
Portland, Oregon 97232

Dear PacifiCorp MSP Team:

The purpose of this Letter of Agreement (“Agreement”) is to preserve the confidentiality of materials provided during the Multi-State Process forum. For purposes of this Agreement, “Confidential Information” is oral or written information that is exchanged exclusively within the context of the Multi-State Process forum and that is marked as confidential or proprietary. Confidential Information does not include information that is independently discoverable.

Confidential Information will be made available to a party who executes this Agreement and participates in the Multi-State Process Forum. Confidential Information must be kept confidential, and every person with access to Confidential Information agrees to protect the Confidential Information using the same degree of care, but no less than a reasonable degree of care, as the person uses to protect its own confidential information of a like nature.

By signing this Agreement, I agree that Confidential Information distributed or obtained under this Agreement may be used or disclosed for the sole purpose of participating in the Multi-State Process forum. I will not reuse or redistribute Confidential Information in any manner, whether inside or outside the scope and context of the Multi-State Process forum, and will return or destroy Confidential Information at the conclusion of the Multi-State Process forum if requested to do so by PacifiCorp.

To the fullest extent permitted by law, by signing this Agreement I waive any right I may have to a trial by jury in respect to litigation directly or indirectly arising out of, under, or in connection with this Agreement. I further waive any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

Signature: _____

Dated: _____

Name: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Email: _____

Information that is designated as confidential is protected from disclosure pursuant to terms of the Letter of Agreement signed by each party. Confidential information includes any information that is directly derived from confidential information, or could be used to recreate the confidential information, even if not explicitly containing information labeled as confidential. Confidential information does not include information already possessed by the receiving party, or information that is independently discoverable or public information.

Letter of Agreement

PacifiCorp
825 NE Multnomah, Suite 2000
Portland, Oregon 97232

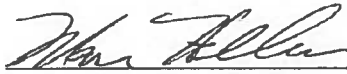
Dear PacifiCorp MSP Team:

The purpose of this Letter of Agreement (“Agreement”) is to preserve the confidentiality of materials provided during the Multi-State Process forum. For purposes of this Agreement, “Confidential Information” is oral or written information that is exchanged exclusively within the context of the Multi-State Process forum and that is marked as confidential or proprietary. Confidential Information does not include information that is independently discoverable.

Confidential Information will be made available to a party who executes this Agreement and participates in the Multi-State Process Forum. Confidential Information must be kept confidential, and every person with access to Confidential Information agrees to protect the Confidential Information using the same degree of care, but no less than a reasonable degree of care, as the person uses to protect its own confidential information of a like nature.

By signing this Agreement, I agree that Confidential Information distributed or obtained under this Agreement may be used or disclosed for the sole purpose of participating in the Multi-State Process forum. I will not reuse or redistribute Confidential Information in any manner, whether inside or outside the scope and context of the Multi-State Process forum, and will return or destroy Confidential Information at the conclusion of the Multi-State Process forum if requested to do so by PacifiCorp.

To the fullest extent permitted by law, by signing this Agreement I waive any right I may have to a trial by jury in respect to litigation directly or indirectly arising out of, under, or in connection with this Agreement. I further waive any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

Signature: 

Dated: January 2, 2017

Name: Marc Hellman
Company: Hellman Associates for ICNU
Address: 2760 Eagle Eye Ave NW
City: Salem State: OR Zip: 97304
Phone Number: 503 290 4660
Email: drmarchellman@gmail.com

Information that is designated as confidential is protected from disclosure pursuant to terms of the Letter of Agreement signed by each party. Confidential information includes any information that is directly derived from confidential information, or could be used to recreate the confidential information, even if not explicitly containing information labeled as confidential. Confidential information does not include information already possessed by the receiving party, or information that is independently discoverable or public information.

From: [McVee, Matthew](#)
To: [Tyler C. Pepple](#)
Cc: [Wilding, Michael](#); [Siores, Natasha](#); [Bolton, Scott](#); [Solander, Daniel](#); [Weston, Ted](#); [Barrett, Jeffrey](#)
Subject: MSP - OPUC UM1050
Date: Wednesday, January 17, 2018 3:49:52 PM

Tyler – PacifiCorp does not consent to Marc Hellman receiving confidential information and does not consent to the NDA submitted by Mr. Hellman on behalf of ICNU. As we discussed, the MSP and participation in the MSP Workgroup is part of the ongoing proceeding in UM 1050 before the Public Utility Commission of Oregon. As such, access to confidential information is governed by the Protective Order in that proceeding. PacifiCorp does not consent to Mr. Hellman’s participation in the MSP due to his obvious conflict based on his prior position with the OPUC and appearance both a witness and lead OPUC staff representative in the MSP. Additionally, it is my understanding that Mr. Hellman may still be providing consulting services to the OPUC on matters that are directly related to issues in the MSP. PacifiCorp will not send Mr. Hellman any confidential information as part of MSP. If any confidential information from the MSP is provided to Mr. Hellman it would constitute a violation the Protective Order in UM 1050. PacifiCorp remains concerned over Mr. Hellman’s numerous ongoing conflicts. Please contact me if you wish to discuss this matter further.

Matthew McVee
Chief Regulatory Counsel
PacifiCorp
825 NE Multnomah Street
Suite 2000
Portland, OR 97232
Office: 503-813-5585
Mobile: 503-729-0259
Email: matthew.mcvee@pacificorp.com

THIS COMMUNICATION MAY CONTAIN CONFIDENTIAL INFORMATION AND MAY BE SUBJECT TO ATTORNEY-CLIENT PRIVILEGE, THE ATTORNEY WORK PRODUCT DOCTRINE, THE JOINT DEFENSE PRIVILEGE, AND/OR OTHER PRIVILEGES. If you are not the intended recipient(s), or the employee or agent responsible for delivery of this message to the intended recipient(s), you are hereby notified that any dissemination, distribution or copying of this e-mail message is strictly prohibited. If you have received this message in error, please immediately notify the sender and delete this e-mail message from your computer