

# McDowell Rackner & Gibson PC



ADAM LOWNEY  
Direct (503) 595-3926  
adam@mcd-law.com

April 14, 2015

## VIA ELECTRONIC FILING

PUC Filing Center  
Public Utility Commission of Oregon  
PO Box 1088  
Salem, OR 97308-1088

**Re: UM 1712 – In the Matter of PACIFICORP d/b/a PACIFIC POWER Application for Approval of Deer Creek Mine Transaction**

Attention Filing Center:

Attached for filing in the above-captioned docket is the Joint Cross-Examination Statement for PacifiCorp d/b/a Pacific Power and the Citizens' Utility Board of Oregon. Please contact this office with any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Adam Lowney".

Adam Lowney

cc: Service List

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1712

In the Matter of

PACIFICORP d/b/a PACIFIC POWER

Application for Approval of Deer Creek Mine Transaction.

JOINT CROSS-EXAMINATION STATEMENT

1 PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) and the Citizens' Utility  
2 Board of Oregon (CUB) (together, the Settling Parties) submit this joint cross examination  
3 statement.

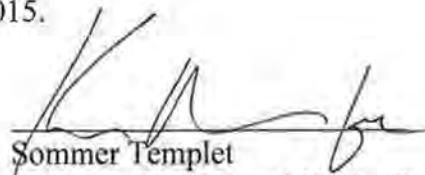
4 The Settling Parties do not intend to cross-examine any witnesses at hearing, based  
5 on their understanding that all other parties waive cross-examination. The Settling Parties  
6 reserve the right to ask follow-up questions if another party or the Commissioners examine  
7 any witness.

8 In addition, the Settling Parties waive their right to present live rebuttal testimony at  
9 hearing based on the understanding that the hearing will be cancelled, provided that the  
10 following exhibits are admitted into the record:

Settling Parties/100	CUB's Response to Industrial Customers of Northwest Utilities (ICNU) Data Request 002
Settling Parties/200	CUB's Response to ICNU Data Request 003
Settling Parties/300	CUB's Response to ICNU Data Request 005
Settling Parties/400	CUB's Response to Staff Data Request 001

Respectfully submitted this 14<sup>th</sup> day of April, 2015.

By:   
Katherine McDowell  
McDowell Rackner & Gibson PC  
Sarah Wallace  
PacifiCorp d/b/a/ Pacific Power  
Attorneys for PacifiCorp

By:   
Sommer Templet  
Attorney for Citizens' Utility Board of Oregon

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1712**

**Settling Parties Cross Exhibit 100**

CUB's Response to ICNU Data Request 2

UM 1712 – CUB  
April 8, 2015  
ICNU First Set of Data Requests to CUB

**ICNU Request 002:**

Please describe CUB's understanding of how construction work in progress ("CWIP") is traditionally accounted for in general rate proceedings in Oregon.

**CUB's Response to ICNU Data Request 002:**

CUB objects to this request as not reasonably calculated to lead to the discovery of admissible evidence, and calling for a legal opinion that would require legal research and/or analysis, which is protected from disclosure pursuant to the attorney-client privilege and/or attorney work product doctrine.

Without waiving these objections, CUB responds as follows: CUB generally understands that CWIP represents dollars that have been invested by a utility that are not yet eligible for recovery in rates in Oregon. As such, CWIP is generally not included in the revenue requirement established in ratemaking proceedings. However, CUB's experience is that most utilities maintain some level of CWIP on their books for routine capital expenditures connected to maintaining an operating plant.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1712**

**Settling Parties Cross Exhibit 200**

CUB's Response to ICNU Data Request 3

UM 1712 – CUB  
April 8, 2015  
ICNU First Set of Data Requests to CUB

**ICNU Request 003:**

Is CUB aware of any instances when an electric utility has been allowed to recover a return on or return of an amount designated as CWIP in rate base in Oregon, associated with plant that was not presently used and useful? If yes, please list all such instances.

**CUB's Response to ICNU Data Request 003:**

CUB objects to this question as overly broad, unduly burdensome, and requiring information not maintained in the ordinary course of business.

Without waiving these objections, CUB responds as follows: Yes. The Commission has previously allowed recovery of CWIP in rates. Specifically, the Commission allowed recovery of CWIP costs following the closure of Trojan. When Trojan closed prematurely, certain contracts and projects were cancelled and remained in accounts as CWIP. In allowing recovery of these costs, the Commission noted that, but for the plant closure, the accounts would have been transferred to a plant in service account as the projects were completed. See *In re of Portland Gen. Elec. Co.'s Application for an Accounting Order Approving Tariff Sheets Implementing Rate Reduction*, Docket UM 989, Order No. 02-227 at 15-16 (Mar. 25, 2002) (allowing CWIP for \$4.2 million in fuel contracts and \$6.1 million in projects that would have been transferred to a plant in service account); Order No. 08-487 n. 338 (citing Order No. 02-227 as authority for allowing recovery of CWIP), *aff'd*, *Gearhart v. Pub. Util. Comm'n of Oregon*, 255 Or App 58, 104, 299 P3d 533, 560 (2013), *aff'd*, 356 Or 216.

In addition, ORS 757.355 was originally developed to serve the needs of the telecommunications industry. In the 1980s and 1990s, there was a significant retirement of the analog network as it was replaced with a digital network. At that time, both the PUC and CUB were critical of phone companies for not replacing the analog equipment sooner because the economics, capacity and reliability of the digital replacements overwhelmingly favored replacement. As these elements were retired, their retirement was ruled in the public interest, and they were allowed rate recovery. It is likely that cost-recovery for these retired analog networks included some CWIP.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1712**

**Settling Parties Cross Exhibit 300**

CUB's Response to ICNU Data Request 5

UM 1712 – CUB  
April 8, 2015  
ICNU First Set of Data Requests to CUB

**ICNU Request 005:**

Does CUB agree that it is not appropriate for the Company to collect CWIP from electric customers in rates, if those amounts are not used and useful for providing utility service in Oregon? If no, please explain.

**CUB's Response to ICNU Data Request 005:**

CUB objects to this request as overly broad, ambiguous, not reasonably calculated to lead to the discovery of admissible evidence, and calling for a legal opinion that would require legal research and/or analysis, which is protected from disclosure pursuant to the attorney-client privilege and/or attorney work product doctrine.

Without waiving these objections, CUB responds as follows: Not necessarily. For further explanation, see CUB's response to ICNU data request 003.



**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1712**

**Settling Parties Cross Exhibit 400**

CUB's Response to Staff Data Request 1

UM 1712 – CUB  
April 3, 2015  
Staff Data Request 1

**Staff Data Request 1:**

Please provide the basis and reasoning for the 3.31 percent interest rate as agreed upon on page 4, line 7 in the UM 1712 Partial Stipulation filed March 25, 2015.

**CUB's Response to Staff Data Request 1:**

This interest rate is consistent with CUB's Response Testimony. From our conclusion:

"CUB recommends that an interest rate of up to 1.51 percent be used to compensate the Company for the time value of money based on the Trojan methodology. CUB can also support an alternative methodology that produces an interest rate of between 2.85 percent and 3.31 percent." UM 1712/CUB/100/Jenks-McGovern/1.

The basis for this alternative recommendation is explained on pages 9 and 10 of CUB's Response testimony. Specifically, the 3.31% interest rate was calculated by applying the Company's current authorized cost of debt to the 48% of its capital structure that is debt, and then applying the federal "profit-free" treasury rates to the remaining 52% of the Company's capital structure that represents return on equity. Using 2 and 5 year treasuries allowed CUB to calculate the range of between 2.85% and 3.31%. CUB believes that this is a reasonable range for the time value of money.

While it could be argued that because we are proposing a two year amortization period (1/1/16-12/31/17), the lower end of this range which represents two year treasuries should apply. However, the interest begins June 1, 2015 when the stipulation removes the current Rate of Return on the undepreciated investment. This means that we are actually dealing with a 2.5 year period. In addition, returns on treasuries are constantly changing. CUB's testimony was based on applying a certain methodology when the testimony was written. If CUB was to recalculate using today's Treasury rates, we would get a different result and if we were to recalculate it on June 1, 2015, we would get a different number. Therefore CUB believes that applying this alternative methodology using both a 2 and a 5 year Treasury from the day that we wrote our testimony produces a range that is reasonable.