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July 28, 2015

## VIA ELECTRONIC FILING

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**Re: DR 49 – In the Matter of GEORGIA-PACIFIC CONSUMER PRODUCTS (CAMAS)  
LLC, and CLATSKANIE PEOPLE’S UTILITY DISTRICT, Petition for Declaratory  
Ruling**

Attention Filing Center:

Attached for filing in the above-captioned docket is PacifiCorp’s Response Brief. Please contact this office with any questions.

Very truly yours,



Katherine McDowell

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

In the Matter of

GEORGIA-PACIFIC CONSUMER  
PRODUCTS (CAMAS) LLC and  
CLATSKANIE PEOPLE'S UTILITY  
DISTRICT,

Petition for Declaratory Ruling.

**DR 49**

**PACIFICORP'S RESPONSE BRIEF**

**July 28, 2015**

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**DR 49**

In the Matter of

GEORGIA-PACIFIC CONSUMER PRODUCTS  
(CAMAS) LLC and CLATSKANIE PEOPLE'S  
UTILITY DISTRICT,

Petition for Declaratory Ruling.

**PACIFICORP'S RESPONSE  
BRIEF**

1 **I. INTRODUCTION**

2 PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) respectfully submits this  
3 Response Brief to the Public Utility Commission of Oregon (Commission). This brief  
4 responds to the joint opening brief filed by the Clatskanie People's Utility District  
5 (Clatskanie) and Georgia-Pacific Consumer Products (Camas) LLP (GP or the Camas Mill)  
6 (collectively, the Petitioners) and the opening brief of Noble Americas Energy Solutions  
7 LLC (Noble Solutions). There is nothing in these opening briefs that changes the conclusion  
8 that the proposed transaction violates Oregon's direct access and territorial allocation  
9 statutes.

10 Petitioners' and Noble Solutions' arguments focus largely on the location of the new  
11 proposed point of delivery from Clatskanie to the Camas Mill. By moving the point of  
12 delivery from Oregon to Washington, Petitioners contend that the proposed transaction is no  
13 longer subject to Oregon law. This argument incorrectly elevates form over substance.  
14 Clatskanie has and will continue to violate PacifiCorp's exclusive service territory regardless  
15 of its claim that the point of delivery for the Camas Mill will move to Washington. As an  
16 Oregon utility, Clatskanie cannot serve an Oregon customer allocated to PacifiCorp through

1 Oregon facilities allocated to PacifiCorp without violating PacifiCorp’s exclusive service  
2 territory. Moving the point of delivery to Washington is no different than moving the point  
3 of delivery to somewhere in Oregon—in either case, Clatskanie violates Oregon law.

4 Petitioners’ transparent attempt to avoid the application of Oregon law by moving the  
5 point of delivery provides strong policy arguments against the proposed transaction. The  
6 Commission just confirmed in *Columbia Basin Electric Cooperative, Inc. v. PacifiCorp et al.*  
7 (*Columbia Basin*) that manipulation of the point of delivery, as Petitioners propose here,  
8 “would effectively render meaningless all allocated service territories.”<sup>1</sup> Approval of the  
9 proposed transaction would establish poor precedent and harm the integrity of allocated  
10 service territories.

11 Clatskanie’s acquisition of the transmission lines that serve the Camas Mill does not  
12 render the proposed transaction extraterritorial and beyond the Commission’s jurisdiction.  
13 The Commission has broad authority to regulate in the public interest and specific authority  
14 under the direct access statutes to regulate transactions between Clatskanie and the Camas  
15 Mill. Moreover, the ownership of the transmission lines serving the Camas Mill has never  
16 been dispositive of Commission jurisdiction—the mill has been an Oregon customer even  
17 when PacifiCorp owned transmission lines that provided service. The argument that the  
18 proposed transaction occurs exclusively in Washington simply does not withstand scrutiny  
19 and is no basis for the Commission to decline jurisdiction, particularly given that the  
20 proposed transaction will harm remaining customers and is contrary to the public interest.

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<sup>1</sup> *Columbia Basin Elec. Coop., Inc. v. PacifiCorp et al.*, Docket No. UM 1670, Order No. 15-110 at 7 (Apr. 10, 2015).

1 Equitable principles of estoppel also preclude the Petitioners from now disclaiming  
2 the Camas Mill’s status as an Oregon customer when it has—for over 70 years—relied on  
3 this status to its own benefit.

## 4 II. ARGUMENT

### 5 A. The Commission’s *Columbia Basin* Order Supports a Finding that Clatskanie 6 has and will continue to Violate PacifiCorp’s Exclusive Service Territory.

7 In *Columbia Basin*, the Commission adopted the geographic load center test “as a  
8 matter of policy to resolve the circumstances presented” *in that case* “because [the  
9 geographic load center test] best furthers the purpose of the Territorial Allocation law. . .”<sup>2</sup>  
10 The Commission specifically found that the geographic load center test “helps best ensure  
11 the integrity of the allocated territories” because it “precludes a customer from manipulating  
12 delivery points and running transmission lines across boundaries to obtain service from a  
13 neighboring utility.”<sup>3</sup> Thus, the individual circumstances dictate how the geographic load  
14 center test is applied and the application of test must support, not undermine, allocated  
15 territories.

16 Petitioners argue that the *Columbia Basin* order “leads to the unequivocal conclusion  
17 that Clatskanie will not violate any service territory allocated to PacifiCorp or any other  
18 Oregon utility because [the Camas Mill’s] load is located in Washington State.”<sup>4</sup> Noble  
19 Solutions makes a similar argument.<sup>5</sup> But this argument ignores the policy considerations  
20 that led the Commission to adopt the geographic load center test and cannot be squared with  
21 the historical fact that the Camas Mill has been served as an Oregon customer since 1947  
22 even though it has always been located in Washington.

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<sup>2</sup> Order No. 15-110 at 8.

<sup>3</sup> *Id.*

<sup>4</sup> GP/Clatskanie Opening Brief at 14.

<sup>5</sup> Opening Brief of Noble Americas Energy Solutions LLC at 5



1 As Petitioners readily acknowledge, their argument has merit only if the Commission  
2 reaches the absurd conclusion that PacifiCorp provides “utility service” to the Camas Mill in  
3 Washington (for purposes of territorial allocation) but that PacifiCorp provides “service” to  
4 the Camas Mill in Oregon (for purposes of the Commission’s general authority).<sup>6</sup> This is the  
5 premise of Petitioners’ argument that the Camas Mill is subject to the Commission’s general  
6 regulatory authority as an Oregon customer of PacifiCorp but beyond the Commission’s  
7 authority for purposes of exclusive allocation. This illogical argument has no support in the  
8 plain meaning of the relevant statutes, nor any precedential support in the Commission’s  
9 orders.

10 Petitioners’ argument relies on the statutory definitions of “utility service” found in  
11 ORS 757.400(3) and “service” found in ORS 756.010(8). Petitioners argue that these two  
12 definitions are unique and independent and therefore it is possible for a utility to provide  
13 “utility service” in one state and “service” in another. Petitioners’ ignore the fact that the  
14 definition of “service” is incorporated into the definition of “utility service” and the two  
15 definitions are substantively the same.

16 ORS 756.010(8) defines the term “service,” as used in Chapters 756, 757, and 758 as  
17 being “used in its broadest and most inclusive sense and includes equipment and facilities  
18 related to providing the service or the product served.” “Utility service” is defined as  
19 “*service* provided by any equipment, plant or facility for the distribution of electricity to  
20 users . . . through a connected and interrelated distribution system.”<sup>7</sup> Because the ORS  
21 758.400(3) definition of “utility service” includes the term “service,” the definition in ORS  
22 756.010(8) is incorporated into the definition of “utility service” in ORS 757.400(3). Thus,

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<sup>6</sup> GP/Clatskanie Opening Brief at 16, n. 66.  
<sup>7</sup> ORS 758.400(3) (emphasis added).

1 the two definitions are not substantively different and there is no basis to conclude that a  
2 utility could provide “utility service” outside of Oregon while simultaneously providing  
3 “service” within the state. Petitioners’ contention that the Camas Mill is beyond the scope of  
4 territorial allocation is wholly without merit.

5 The Company’s Commission-approved tariffs also make clear that the Camas Mill is  
6 within PacifiCorp’s Oregon service territory. For example, the Camas Mill received service  
7 for years under former Schedule 42T, the Company’s pulp and paper tariff.<sup>8</sup> By its express  
8 terms, service under that tariff was available only in “territory served by the Company in  
9 Oregon.”<sup>9</sup> If the Mill was not part of the Company’s Oregon service territory, as Petitioners  
10 now contend, then the Camas Mill would have been ineligible for this tariff.

11 Petitioners’ application of *Columbia Basin* here undermines territorial allocation by  
12 allowing Clatskanie to change the Camas Mill’s point of delivery to evade PacifiCorp’s  
13 exclusive service territory. The Commission explicitly rejected this type of manipulation in  
14 *Columbia Basin*, and such manipulation has been found illegal by numerous other regulatory  
15 commissions and courts.<sup>10</sup>

16 **B. The Commission has Jurisdiction to Regulate the Proposed Transaction as**  
17 **Direct Access and the Dormant Commerce Clause is Not Implicated in this Case.**

18 Petitioners argue that once the sale of the transmission lines occurs, Clatskanie will  
19 provide utility service to the Camas Mill in Washington. Therefore, Petitioners and Noble  
20 Solutions reason that Commission cannot regulate the transaction because the dormant

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<sup>8</sup> *In re Pacific Power & Light Co.*, Docket No. UE 72, Order No. 88-898 at 7 (Aug. 9, 1988).

<sup>9</sup> Exhibit A (Pacific Power & Light Company Schedule 42T, Sept. 16, 1987).

<sup>10</sup> Order No. 15-110 at 8; *see, e.g., Public Serv. Co. of Colo. v. Public Utils. Comm’n of Colo.*, 765 P.2d 1015, (Colo. 1988); *Lee County Elec. Co-op v. Marks*, 501 So.2d 585 (Fla. 1987); *O’Brien Cnty. Rural Elec. Co-op. v. Iowa State Commerce Comm’n*, 352 N.W.2d 264, 267 (Iowa 1984); *Holston River Elec. Co. v. Hydro Elec. Corp.*, 66 S.W.2d 217, 222 (Tenn. 1933); *Sw. Elec. Power Co. v. Carroll Elec. Co-op. Corp.*, 554 S.W.2d 308, 310 (Ark. 1977); *Cent. Illinois Pub. Serv. Co. v. Illinois Commerce Comm’n*, 560 N.E.2d 363, 368 (Ill. App. 1990).

1 Commerce Clause precludes regulation outside of Oregon.<sup>11</sup> On the contrary, the proposed  
2 transaction is subject to Commission jurisdiction under the direct access statutes and  
3 exercising jurisdiction does not regulate a transaction occurring in another state.

4 The dormant Commerce Clause “holds that any ‘statute that directly controls  
5 commerce occurring wholly outside the boundaries of a State exceeds the inherent limits of  
6 the enacting State's authority.’”<sup>12</sup> The United States Supreme Court has found violations of  
7 the extraterritoriality doctrine when the regulations have the following three “essential  
8 characteristics”: the statute is a price control statute, the statute links the prices paid in-state  
9 with those paid out-of-state; and the statute discriminates against out-of-staters.<sup>13</sup> Courts  
10 rarely strike down state regulations as violations of this extraterritoriality doctrine.<sup>14</sup> In this  
11 case, regulation of the proposed transaction under the direct access statutes<sup>15</sup> shares none of  
12 the three “essential characteristics” required for a violation of the dormant Commerce  
13 Clause’s extraterritorial doctrine.<sup>16</sup>

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<sup>11</sup> GP/Clatskanie Opening Brief at 6-7; *see also* Opening Brief of Noble Americas Energy Solutions LLC at 3.

<sup>12</sup> *Rocky Mountain Farmers Union v. Corey*, 730 F.3d 1070, 1101 (9th Cir. 2013) *cert. denied*, 134 S. Ct. 2875, 189 L. Ed. 2d 835 (2014) and *cert. denied sub nom. Am. Fuel & Petrochemical Mfrs. Ass'n v. Corey*, 134 S. Ct. 2875, 189 L. Ed. 2d 835 (2014) and *cert. denied*, 134 S. Ct. 2884, 189 L. Ed. 2d 835 (2014) (quoting *Healy v. Beer Inst.*, 491 U.S. 324, 336 (1989)).

<sup>13</sup> *Energy & Env't Legal Inst. v. Epel*, No. 14-1216, 2015 WL 4174876, at \*4 (10th Cir. July 13, 2015); *see also Rocky Mountain Farmers Union*, 730 F.3d at 1102; *Rocky Mountain Farmers Union*, 730 F.3d at 1102 (“price” being regulated need not be strictly monetary; can be a minimum standard for environmental protection).

<sup>14</sup> *Rocky Mountain Farmers Union v. Corey*, 730 F.3d 1070, 1101 (9th Cir. 2013) *cert. denied*, 134 S. Ct. 2875, 189 L. Ed. 2d 835 (2014) and *cert. denied sub nom. Am. Fuel & Petrochemical Mfrs. Ass'n v. Corey*, 134 S. Ct. 2875, 189 L. Ed. 2d 835 (2014) and *cert. denied*, 134 S. Ct. 2884, 189 L. Ed. 2d 835 (2014) (quoting *Healy v. Beer Inst.*, 491 U.S. 324, 336 (1989)) (rejecting application of extraterritoriality doctrine to California ethanol standards).

<sup>15</sup> Petitioners and Noble Solutions confine their Commerce Clause argument to the direct access question. Petitioners do argue, however, that PacifiCorp’s exclusive service territory will not be violated because the “utility service” provided by Clatskanie will occur in Washington. As described above, even if the point of delivery changes to Washington, Clatskanie will still violate PacifiCorp’s exclusive service territory in Oregon by serving the Camas Mill. Therefore, the Commerce Clause in no way precludes a finding that Clatskanie has and will continue to violate PacifiCorp’s Oregon service territory under the proposed transaction.

<sup>16</sup> *Energy & Env't Legal Inst. v. Epel*, No. 14-1216, 2015 WL 4174876, at \*4 (10th Cir. July 13, 2015) (upholding Colorado’s renewable energy standard because “that mandate just doesn’t share any of the three essential characteristics that mark those cases: it isn’t a price control statute, it doesn’t link prices paid in Colorado with those paid out of state, and it does not discriminate against out-of-staters.”).

1           The Eighth Circuit Court of Appeals rejected extraterritorial arguments and found  
2 that a Missouri statute did not violate the dormant Commerce Clause even though the statute  
3 required all regulated utilities to obtain approval before acquiring securities of another  
4 utility.<sup>17</sup> The utility argued that the regulation impermissibly regulated interstate stock  
5 transactions occurring outside Missouri. The court rejected this extraterritoriality argument  
6 after concluding that the regulation was part of the Missouri commission’s “rate regulation  
7 responsibilities” and that the regulation was “of a local public utility for the protection of  
8 local Missouri ratepayers.”<sup>18</sup>

9           Here, the regulation of the proposed transaction is consistent with the Commission’s  
10 broad statutory authority to regulate the provision of utility service for the protection of  
11 customers.<sup>19</sup> The proposed transaction will harm remaining customers and invoking  
12 Commission jurisdiction is not only consistent with Oregon law, but is also mandated by  
13 Oregon law.<sup>20</sup>

14           Moreover, the fact that the sale of the transmission lines will result in a Washington  
15 point of delivery does not divest the Commission of jurisdiction to regulate the transaction  
16 under ORS 757.672(2), which requires PUDs that sell electricity to a “nonresidential  
17 electricity consumer of another electric utility in this state” to do so as an ESS under the  
18 requirements of direct access. Clatskanie’s proposed sale satisfies the clear and  
19 unambiguous requirements of this statute for invoking Commission jurisdiction to regulate a

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<sup>17</sup> *S. Union Co. v. Missouri Pub. Serv. Comm’n*, 289 F.3d 503, 508 (8th Cir. 2002).

<sup>18</sup> *Id.*

<sup>19</sup> See e.g. ORS 756.040; *Pacific Northwest Bell Tel. Co. v. Sabin*, 21 Or. App. 200, 214, *rev den* (1975) (Commission has “the broadest authority—commensurate with that of the legislature itself—for the exercise of [its] regulatory function.”); *Arkansas Elec. Co-op. Corp. v. Arkansas Pub. Serv. Comm’n*, 461 U.S. 375, 377 (1983) (“the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the States”).

<sup>20</sup> See PacifiCorp’s Opening Brief at 23-25.

1 PUD.<sup>21</sup> And even if the transmission lines are sold, Clatskanie will serve the Camas Mill  
2 through the same substation in Oregon where the mill’s load is located for purposes of direct  
3 access—confirming that the violation of direct access occurs in Oregon.<sup>22</sup>

4 Further, the fact that Clatskanie will own the transmission lines into Washington does  
5 not make the transaction extraterritorial.<sup>23</sup> PacifiCorp has owned at least one of the  
6 transmission lines serving the Camas Mill in its entirety—even the portion of the line that  
7 extends into Washington.<sup>24</sup> Yet, the Camas Mill has always been an Oregon customer  
8 subject to the jurisdiction of the Commission. Therefore, the ownership of the transmission  
9 lines does not, in itself, determine whether the Camas Mill is an Oregon utility customer for  
10 purposes of regulating the transaction between it and Clatskanie.<sup>25</sup>

11 **C. The Petitioners are Estopped from Arguing that the Camas Mill is not an**  
12 **Oregon Customer.**

13 The doctrine of judicial estoppel precludes the Petitioners from now claiming that the  
14 Camas Mill is not an Oregon customer of PacifiCorp.<sup>26</sup> Judicial estoppel can be invoked to  
15 preclude a party from assuming a position that is inconsistent with the position that the same

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<sup>21</sup> See PacifiCorp’s Opening Brief at 21-22.

<sup>22</sup> OAR 860-038-0005(31) (“load” for purposes of direct access is “the amount of electricity delivered to or required by a retail electricity consumer at a specific point of delivery”).

<sup>23</sup> GP/Clatskanie Opening Brief at 7; Opening Brief of Noble Americas Energy Solutions LLC at 5.

<sup>24</sup> See *PacifiCorp Application for an Order Authorizing the Sale of Certain Assets to GP Camas*, Docket No. UP 325, Application of PacifiCorp (Apr. 7, 2015) (describing the historical ownership of certain transmission lines serving the Camas Mill). PacifiCorp requests that the Commission take official notice of this filing under OAR 860-001-0460(1)(d) as a record in the files of the Commission that has been made a part of the files in the regular course of performing the Commission’s duties.

<sup>25</sup> Again, the ownership of the transmission lines also does not determine whether Clatskanie has and will continue to violate PacifiCorp’s Oregon allocated service territory. As described on pages 16-17 of PacifiCorp’s Opening Brief at 16-17, courts have found violations of exclusive service territories even when the violating utility constructs and owns the transmission lines used to evade allocated service territory. See *Lee County Elec. Co-op v. Marks*, 501 So.2d 585 (Fla. 1987).

<sup>26</sup> The Commission has found that a similar estoppel doctrine can apply to parties appearing before it. See e.g., *Central Lincoln People’s Util. Dist. v. Verizon Northwest Inc.*, Docket No. UM 1087, Order No. 05-042 at 10 (Jan. 19, 2005).

1 party has asserted to its own benefit in a different proceeding.<sup>27</sup> Here, the Commission  
2 should invoke judicial estoppel and preclude the Camas Mill from asserting that it has never  
3 been an Oregon customer subject to the Commission’s territorial allocation statutes and to  
4 preclude the Camas Mill from asserting that it will no longer be an Oregon customer for  
5 purposes of direct access.

6 In ratemaking proceedings, the Camas Mill has repeatedly asserted that it is within  
7 PacifiCorp’s Oregon service territory and entitled to the Company’s Oregon tariffs when  
8 those tariffs were to its own benefit. For example, the Camas Mill has requested and  
9 received Commission approval to take service under the Company’s pulp and paper tariff,  
10 which was only available to customers within PacifiCorp’s Oregon service territory.<sup>28</sup> The  
11 mill has also argued that it should be eligible for an experimental customer choice program  
12 that was made available to only the Company’s Oregon customers.<sup>29</sup> The Camas Mill has  
13 further taken advantage of its status as an Oregon customer and received extensive benefits  
14 from the Energy Trust of Oregon.<sup>30</sup> The Petitioners’ arguments in this case that the Camas  
15 Mill has never been within PacifiCorp’s Oregon service territory and that it is not an Oregon  
16 customer for purposes of direct access are clearly inconsistent with prior positions and are  
17 subject to judicial estoppel.

18 **D. PacifiCorp’s Direct Access Programs Never Assumed that the Camas Mill is**  
19 **Ineligible for Direct Access.**

20 Noble Solutions argues that the proposed transaction is not direct access because in  
21 docket UE 267 Noble Solutions and other parties assumed that the Camas Mill was ineligible

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<sup>27</sup> *Hampton Tree Farms, Inc. v. Jewett*, 320 Or. 599, 609 (1995); *Glover v. Bank of New York*, 208 Or. App. 545, 552 (2006) (three elements of judicial estoppel: (1) asserting a position in prior proceeding; (2) different proceeding; (3) taking inconsistent position in different proceeding).

<sup>28</sup> See e.g., Order No. 88-898.

<sup>29</sup> *In re PacifiCorp*, Docket No. UE 105, Order No. 98-157, 185 P.U.R.4th 586 (Apr. 15, 1998).

<sup>30</sup> Revised Petition at 5.

1 for direct access.<sup>31</sup> But there is nothing in the record in docket UE 267 relating in any way to  
2 the Camas Mill or indicating that the mill was ineligible for direct access. Moreover, the  
3 Commission's order did not preclude the Camas Mill from participating in PacifiCorp's five-  
4 year opt-out program or even reference the Camas Mill at all. The Commission should  
5 disregard Noble Solutions' entirely unsubstantiated argument regarding docket UE 267.

### 6 III. CONCLUSION

7 Clatskanie cannot hide behind its manipulation of the point of delivery to evade  
8 Oregon law and Commission jurisdiction. *Columbia Basin* affirms that the Commission will  
9 not apply Oregon law so as to undermine allocated service territories. Clatskanie's argument  
10 that it can serve a PacifiCorp customer so long as the point of delivery is outside of  
11 PacifiCorp's exclusive service territory is contrary to this policy, even if the point of delivery  
12 is in Washington.

13 Moreover, the Commission has jurisdiction to enforce its territorial allocation statutes  
14 and regulate direct access transactions to protect customers and the public interest even when  
15 Clatskanie improperly attempts to divest the Commission of its jurisdiction through  
16 manipulation of the point of delivery. The Commission should affirm that the violation of  
17 territorial allocation and direct access occurs in Oregon and neither violation is  
18 extraterritorial or beyond the Commission's jurisdiction.

19 ///

20 ///

21 ///


22 ///

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<sup>31</sup> Opening Brief of Noble Americas Energy Solutions LLC at 3-4.

1           Finally, arguments that the Camas Mill is not an Oregon customer are precluded by  
2 judicial estoppel. The mill has taken advantage of its status as an Oregon customer for over  
3 70 years and it is inequitable to now allow that customer to claim that it is not—and has  
4 never been—an Oregon customer.

Respectfully submitted this 28<sup>th</sup> day of July, 2015.



Katherine A. McDowell  
McDowell Rackner & Gibson PC

Sarah K. Wallace  
Vice President & General Counsel  
PacifiCorp d/b/a/ Pacific Power  
Attorneys for PacifiCorp



**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**DR 49**

**Exhibit A**

**Pacific Power & Light Company Schedule 42T, Sept. 16, 1987**

PACIFIC POWER & LIGHT COMPANY

SCHEDULE 42T  
PULP AND PAPER SERVICE  
PARTIAL REQUIREMENTS SERVICE - METERED TIME OF USE  
15,000 KW AND OVER  
(OPTIONAL)



(N)

AVAILABLE:

In all territory served by Company in Oregon.

APPLICABLE:

This schedule is available to Pulp and Paper electric service loads identified as Standard Industrial Classification Major Group 26, Paper and Allied Products for partial requirements, supplementary, or standby electric service furnished for contract capacities of 15,000 kw and over or for takings which have registered 15,000 kw or more, more than once in a consecutive 18-month period, and which have been approved for this schedule by the Public Utility Commission of Oregon. Customer must have energy sources other than the Company, including on-site generation prior to September 1, 1987, at a single point of delivery at Company's locally standard voltage. Deliveries at more than one point or more than one voltage and phase classification will be separately metered and billed. Not applicable to service for: resale, intermittent or highly fluctuating loads, or seasonal use. This schedule is not required where on-site generation is employed only for emergency supply during utility outage.

MONTHLY BILLING:

The Monthly Billing shall be the sum of the Electric Service Charge, the Standby Charge, the Overrun Rate Charge and the Reactive Power Charges multiplied by the Electric Price Escalation Factor for the appropriate Monthly Consumption Period less the Competitive Adjustment Dollar Amount.

Electric Service Charge:

The Electric Service Charge shall be computed in accordance with the Basic, Demand and Energy Charges contained in the Electric Service Charge paragraph of Schedule 43T of this tariff, and adjusted in accordance with the Primary Voltage Metering and Delivery Adjustments therein.

Standby Charge:

Fifty percent (50%) of the applicable Demand Charge contained in the Electric Service Charge paragraph of Schedule 43T shall be applied to the kw by which Customer's Contract Capacity or Total Load Demand, as provided by contract, exceeds the On-Peak Period Billing Demand.

Overrun (Excess Takings) Rate:

- Overrun demand charge: 4 times Schedule 43T Demand Charge
- Overrun energy charge: 2 times Schedule 43T Energy Charge

(Continued)

(N)

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Issued July 17, 1987 *Fredric D. Reed* Effective with service rendered on and after October 1, 1987 through and including September 30, 1997

Issued by PACIFIC POWER & LIGHT COMPANY  
Fredric D. Reed, Senior Vice President  
Public Service Building, Portland, Oregon

PACIFIC POWER & LIGHT COMPANY

SCHEDULE 42T  
 PULP AND PAPER SERVICE  
 PARTIAL REQUIREMENTS SERVICE - METERED TIME OF USE  
 15,000 KW AND OVER  
 (OPTIONAL)



MONTHLY BILLING: (Cont'd.)

Reactive Power Charge:

The maximum 30-minute reactive demand for the month in kilovolt-amperes in excess of 40% of the maximum measured kilowatt demand for the same month will be billed at 60¢ per kvar of such reactive demand. In addition, all reactive kilovolt-ampere hours (kvarh) which are registered in excess of 40% of the registered monthly kilowatt-hours (kwh) will be billed at 0.08¢ per kvarh. The Reactive Power Charge shall be adjusted in accordance with the Primary Voltage Metering and Delivery Adjustments of Schedule 43T.

Electric Price Escalation Factors:

<u>Monthly Consumption Periods</u>	<u>Electric Price Escalation Factors</u>
October 1987 through September 1988	1.000
October 1988 through September 1989	1.049
October 1989 through September 1990	1.098
October 1990 through September 1991	1.146
October 1991 through September 1992	1.195
October 1992 through September 1993	1.256
October 1993 through September 1994	1.317
October 1994 through September 1995	1.378
October 1995 through September 1996	1.439
October 1996 through September 1997	1.500

Competitive Adjustment Dollar Amount:

The Competitive Adjustment Dollar Amount shall be the product of multiplying the sum of the kilowatt-hours utilized in the calculation of the Electric Service Charge by 1.3 cents per kilowatt-hour.

(Continued)

(N)

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SCHEDULE 42T  
PULP AND PAPER SERVICE  
PARTIAL REQUIREMENTS SERVICE - METERED TIME OF USE  
15,000 KW AND OVER  
(OPTIONAL)



SPECIAL CONDITIONS:

1. The Service Contract shall specify Customer's selection from stated alternatives of service provisions by which the magnitude of Company's service and of the kw applicable to the standby charge is determined from (a) Customer's Total Load Demand including any coincident power supplied by Customer's on-site generation, or alternatively, by (b) a lesser Contract Capacity expressed as a fixed total number of kw.

2. Deliveries at a rate of supply in excess of the Contract Capacity are not firm power deliveries and are subject to curtailment.

3. Company will provide metering and will determine the Overrun Demand and Energy as follows: Overrun Demand, the kw by which the highest monthly measured demand exceeds the Contract Capacity; Overrun Energy, the summation of those kwh by which deliveries exceed the Contract Capacity kw level. Any Overrun quantities will be billed at the Overrun Rate. The monthly measured delivery quantities used in determination of Overrun Charges will be reduced by the amount of such billed Overrun Demand and Energy quantities before application to the calculation of Basic, Demand and Energy Charges contained in this tariff.

4. Metering shall be detented to measure one-way deliveries.

5. Company and Customer shall provide, by written Service Contract additional terms including, but not limited to, the following:

(a) A commitment by Customer to defer the operation of any new on-site generation at Customer's manufacturing complex and to purchase all electric power and electric energy from Company during the term of the Service Contract, except as otherwise provided in the Service Contract with respect to existing on-site generation and large new electric loads.

(b) A commitment by Customer to allow Company to call for the installation and operation of on-site generation at Customer's manufacturing complex under circumstances and upon terms and conditions provided in the Service Contract.

(c) A grant to Company of a right of first refusal to participate in on-site generation at Customer's manufacturing complex under circumstances and upon terms and conditions provided in the Service Contract.

(Continued)

(N)

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(OPTIONAL)



(N)

SPECIAL CONDITIONS: (Cont'd.)

5. (Continued)

(d) The methods to be used and factors to be considered in establishing rates, terms and conditions for electric service after the term of the Service Contract.

(e) Terms governing the rights of Company and Customer to modify or terminate the Service Contract prior to the expiration of the term specified in the Service Contract.

(f) Service commitments and usage subject to this schedule.

6. By electing to take service under this schedule, Customer waives whatever right Customer may have to return to Company's standard service schedules following the expiration or termination of the Service Contract. This waiver shall survive the effective period of this schedule.

7. Company's duty to plan and acquire resources and to provide electric service to Customer's manufacturing complex after the term of the Service Contract and any reasonable transition period provided in the Service Contract shall reflect the level, extent and term of Customer's commitment to purchase electric power and electric energy from Company after such period.

ON-PEAK PERIOD BILLING DEMAND:

The On-Peak Billing Demand shall be the greater of:

(a) The On-Peak Period kw shown by or computed from the readings of Company's demand meter for the 30-minute period of customer's greatest use during the billing month, determined to the nearest kw, or

(b) 15,000 kw.

TOTAL LOAD DEMAND:

The measured kw shown by or computed from Company's demand totalizer meter of the 30-minute period of greatest coincident total of customer's power use from customer's generation and from power supplied by Company.

(Continued)

(N)

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(OPTIONAL)



(N)

CONTRACT CAPACITY:

The kw level specified in the written Service Contract which the customer expects to be the maximum takings from the Company.

TERM OF CONTRACT:

Term of not less than seven years nor greater than the effective period of this schedule, subject to termination as specified in the written Service Contract between the Customer and the Company. Service contract must be approved by the Public Utility Commission of Oregon.

RULES AND REGULATIONS:

Service under this schedule is subject to the General Rules and Regulations contained in the tariff of which this schedule is a part and to those prescribed by regulatory authorities.

(N)

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