BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 233

In the Matter of	)))
IDAHO POWER COMPANY	))
Request for a general rate revision	))

SUPPLEMENTAL TESTIMONY OF THE
CITIZENS' UTILITY BOARD OF OREGON

April 13, 2012

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IDAHO POWER COMPANY	)	OF OREGON
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	)	
	)	

Our names are Gordon Feighner and Bob Jenks, and our qualifications are listed in CUB Exhibit 101.

I. Introduction

On February 23, 2012, the Oregon Public Utility Commission ("OPUC" or "the Commission") issued Order No. 12-055, which adopted the Stipulation filed by the parties on February 1, 2012. Section B.2 of the Order addressed CUB's remaining issue in this proceeding, regarding the prudency of the Company's investment in the Bridger coal plant.

This issue did not get fully litigated in the first phase of this docket because Idaho Power mislabeled the investment as an investment that was made in 2008, rather than as a new investment subject to review for the first time in this docket. Idaho Power corrected this error in an errata filing on December 1, 2011, less than one week prior to the filing deadline for CUB's reply testimony in this docket. CUB was left with insufficient time to conduct discovery pertaining to the new information. Idaho Power's February 1, 2012, supplemental testimony failed to reveal the full extent of the BART and other investments in Bridger 3.[1] Idaho Power's LC 53 public meeting testimony also failed to reveal the full extent of the BART and other investments in Bridger 3. Notwithstanding all of this is that the February 1, 2012, Idaho Power supplemental testimony was intended to demonstrate the prudency of the Bridger investments.

This testimony, supported by the statements made at the LC 53 hearing on February 14, 2012, and Idaho Power's answers to subsequent data requests show that the

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[1] The following discussion of 2012 incremental costs took place during the discussion of the Bridger investment costs which took place before the Commission on February 14, 2012. This discussion is indicative of Idaho Power's difficulty understanding the concept that when considering plant investments it must consider all environmental costs that regulation may bring. This is the same problem the Company had when considering the plant investments at issue in this docket.

Commissioner Savage: I've got to ask my empirical question now. Are you making investments related to EPA regs before the study is completed?

Mark Stokes: Again, I don't have the specifics with me. I believe we do have some dollars in our budget this year…

Commissioner Savage: For EPA regulations…

Mark Stokes: Yeah, basically emissions-type equipment. I don't believe it's related to MACT, it might be related to the RH BART, I can't specifically say at this point.

* * * * *

Commissioner Bloom: How much money are you talking about to meet the EPA requirements?

Mark Stokes: Oh…Commissioner I apologize I can't tell you exactly how much. I know back when we did the …um…I do not believe it's on the order of tens of millions. I think it's less than that um…an exact amount though I cannot give you.

Commissioner Ackerman: Single digit millions?

Mark Stokes: I believe so or even less.

Commissioner Bloom: A million here, a million there….

Mark Stokes: I am sorry to interrupt here but I believe it's a minimal amount here in 12 it's certainly a number we could come up with and get to you though.

* * * * *

Mark Stokes: We were able to get some coal cost numbers um . . . for 2012 and the total was $4,680,000 and that's all for engineering and design work this year only. It's not actual purchase and installation of equipment.

Commissioner Ackerman: And that is, that is, I'm sorry the coal work related to the MACT rules or BART?

Mark Stokes: No scrubbers and mercury controls.

Company, notwithstanding the Company's and Staff's testimony to the contrary,[2] did not act prudently. At the time Idaho Power decided to go forward with the investment in Bridger, it had done no analysis to determine whether such investment would still be cost effective when the additional expected regulations of coal emissions and carbon output were taken into account. Without taking into account the full array of expected environmental regulation on coal facilities, the Company could not, and cannot, reasonably establish the expected life of the coal unit with which to judge the cost effectiveness of the investment in question and compare the investment in question to alternative resource investments.

II. Idaho Power Did Not Conduct an Adequate Evaluation of its Expected Investment

A number of factors indicate that Idaho Power's evaluation of its investments in the Bridger plant was incomplete.

A. The Analysis Conducted At Bridger Was Limited to Evaluating the Least-Cost Pollution Control

Jim Bridger Unit 3 is owned jointly by PacifiCorp and Idaho Power. According to Idaho Power, the $8.2 million investment in upgrading scrubbers made in 2011 was "required to comply with" the Regional Haze Rule under the Federal Clean Air Act.[3] This was the same rule implicated in the requirement for clean air investments in PGE's Boardman coal plant. As a part-owner of Boardman, Idaho Power was fully informed of the analysis of Boardman conducted by PGE. It is also one of the rules implicated in

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[2] UE 233 Staff / 1000 / Colville / 2, lines 11-13.
[3] UE 233 / Idaho Power / 1300 / Carstensen / 3.

PacifiCorp's decision to file testimony this week before the Wyoming Public Service Commission in relation to its previously filed CPCN application for Naughton 3, advising the Wyoming Commission of the results of its "continued evaluation and analysis of the pollution control equipment investments, as well as alternative compliance options, for the Naughton Unit 3 facility".[4] That testimony stated:

> Based upon the results of the Company's continued assessment, the Company has arrived at an alternative decision to pursue gas conversion at the Naughton Unit 3 facility rather than invest in environmental control technologies as originally proposed in the Application.[5]

The Company went on to state that:

> The Company proposes that the ongoing Naughton Unit 3 CPCN docket be used to explain the Company's alternative decision, to present the information regarding changing conditions that have led to the alternative decision, and to review the updated analysis that the Company has applied to this decision *and plans to apply to its future near-term major investment decisions regarding Jim Bridger Units 3 and 4 selective catalytic reduction ("SCR") installation projects.*[6]

Remember, Jim Bridger Unit 3 is owned jointly by PacifiCorp and Idaho Power.

PacifiCorp also stated:

> Natural gas conversion of Naughton Unit 3 has been determined by the Company to be the risk adjusted, lowest cost compliance alternative when compared to the mandated environmental projects using updated model input assumptions and updated market information.[7]

So it is now apparent that PacifiCorp understands—at least in relation to Naughton 3 and possibly Bridger 3 and 4—that a utility has to look at the entirety of potential regulatory and environmental costs to determine what will be the prudent, least-cost option for a

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[4] Rebuttal Testimony of Chad A. Teply on behalf of Rocky Mountain Power, Wyoming PUC, April 2012 page 1-3 and 6-10.
http://www.rockymountainpower.net/content/dam/rocky_mountain_power/doc/About_Us/Rates_and_Regulation/Wyoming/Regulatory_Filings/Docket_20000_400_EA_11/04-09-12_Rebuttal_Testimony_and_Exhibits/Chad_A_Teply/2_Chad_A_Teply.pdf
[5] *Id* at page 1 lines 15-18.
[6] *Id* at page 3 lines 10 – 15.
[7] *Id* at page 4 lines 10 – 15.

generation plant. It appears, unfortunately, that both Idaho Power and Staff are having trouble with this concept.

Staff's conclusion in the UE 233 Staff/1000 testimony is based upon an incomplete analysis conducted by CH2M Hill on behalf of PacifiCorp. The analysis failed to determine whether the proposed pollution control investment would still be cost-effective when anticipated future carbon regulations or the full requirements of BART were taken into account. Without taking into account the full array of expected environmental regulation on coal facilities, Idaho Power could not reasonably establish the expected life of the coal unit with which to judge the cost-effectiveness of the investment in question and compare the investment in question to alternative resource investments. This is important because prudence review does not look only at what a company knew, but also at what a company should have known, and Idaho Power failed to conduct an independent analysis to close the obvious holes in the PacifiCorp analysis with regard to carbon regulation. The after-the-fact spreadsheet provided by Staff in an attempt to fill in the holes in Idaho Power's testimony is just that, an after-the-fact study and not relevant to what the Company actually knew at the time. All the study does is to provide verification of the costs incurred by Idaho Power. CUB does not dispute the total dollars spent by Idaho Power; CUB instead disputes that such an expenditure was appropriate and cost-effective, and that the expenditure was prudent. The Company failed completely to consider whether total plant replacement was the least-cost option.

It is important to note that the $8.2 million in costs sought in this docket does not cover the full cost of clean air investment in Bridger—it is not even the full cost of BART-related clean air investment. The $8.2 million requested in this docket represents only the incremental investment in BART controls that may qualify, pursuant to ORS 757.355(1), as used and useful in this docket. Idaho Power Exhibit 1302 shows that the total investment cost related to BART requires a minimum investment of $40.5 million, plus millions of dollars in increased operating costs.[8] But the expected investment in BART is significantly above $40.5 million, because the CH2MHill analysis does not support the current BART investment. According to Idaho Power, CH2MHill looked at a variety of pollution controls:

> These analyses assessed costs and benefits of a range of alternatives in the form of different scenarios of pollution control equipment. These scenarios include low NOx burners ("LNBs") with over-fire air ("OFA"), sodium based FGD, SO 3 (sulfur trioxide) injection, and selective catalytic reduction ("SCR").[9]

The study did look at SCR, but it concluded that installing an SCR was not cost effective pollution control.[10] CUB Confidential Exhibit 201 shows BEGIN CONFIDENTIAL $[redacted] associated with an SCR beginning in 2012. At the Commission Public Meeting on LC 53, Mark Stokes from Idaho Power identified $4.68 million for design and engineering work this year.[11] Most of that is for the SCR investment that the CHM2 HILL analysis determined is not cost-effective pollution control.

CUB Confidential Exhibit 201 shows that the total new investment and additional O&M costs in the plant since 2005 is more than $[redacted] and the total new investment and O&M cost expected before 2022 is more than $[redacted].

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[8] UE 233 / Idaho Power / Carstensen / 1302 / 4-6.
[9] UE 233/Idaho Power/1300/John Carstensen/7
[10] Idaho Power/1301/Carstensen/56.
[11] See Footnote 1.

The big picture issue, as noted above, is not whether the $8.2 million requested in this docket is reasonable and prudent, because that investment assumes that all other investments necessary to keep the plant running will also be made. Rather, the issue is whether the entire scheme of proposed investments is reasonable and prudent when taken as a whole. The entire scheme of these investments is expected to total more than $[redacted] for the period between 2005 and 2021. END CONFIDENTIAL

But the costs at hand in this docket are limited. The work on the plant related to the $8.2 million at issue in this docket was completed in the spring of 2011. According to Idaho Power, this investment was also made to ensure compliance with the Mercury and Air Toxics Standards (MATS) standard approved by EPA in the fall of 2011.[12] Exhibits 1301 and 1302, however, demonstrate that any evaluation of these costs was explicitly limited to the requirements of BART. The exhibits also demonstrate that the investment was made before the MATS requirements were finalized.

B. The Company Failed to Analyze Whether Pollution Control Was the Least Cost Resource Investment

CUB Confidential Exhibit 201 shows that Idaho Power's total capital and O&M expenses for Bridger Unit 3 between 2005 and 2021 are expected to total more than BEGIN CONFIDENTIAL $[redacted]. END CONFIDENTIAL According to the Company, it has not conducted an analysis to determine whether these costs are prudent when compared to alternative generation investments:

> For CUB Data Request Nos. 33 and 34 that listed past expenditures and anticipated future expenditures related to capital and operations and maintenance at the Bridger coal plant, Idaho Power Company ("Idaho Power") has not performed the requested studies or evaluations of all

[12] UE 233 / Idaho Power / Carstensen / 1302 / 6.

> expenditures as opposed to investment in alternative replacement generation. However, the turbine upgrade projects listed in CUB Data Requests Nos. 33 and 34 were analyzed to compare the cost of the turbine upgrade projects to the next best alternatives . . .
>
> Idaho Power has committed to perform a unit-by-unit analysis that will be part of the 2011 Integrated Resource Plan update and will include costs for compliance with any enacted or anticipated environmental legislation and regulations that may be identified as impacting Idaho Power's coal generating resources.

As the above response to CUB Data Request No. 36[13] shows that a great deal of additional investment in the plant is expected. Idaho Power is making investments on an incremental basis—a few million in 2011, a few million in 2012—and has yet to evaluate the investment costs to ensure that they are prudent in comparison to possible investment in alternative resources. The CH2M HILL study commissioned by PacifiCorp was limited to evaluating the least-cost pollution control The analysis did not consider whether the overall least cost for customers would be an investment in alternative resources of energy.

C. The Company Failed to Analyze Whether a Change in the Closure Date Would Lead to a Lower Cost Investment

The first CH2M HILL analysis, completed on behalf of PacifiCorp, was finalized in January 2007 and was described as a "BART analysis" for Jim Bridger Unit 3. The study examined various control technologies for NO_x, SO_2, and PM10 emissions.[14] The BART analysis required by the Code of Federal Regulations (CFR) must include:

> 1. The identification of available, technically feasible, retrofit control options

[13] CUB Exhibit 202.
[14] UE 233 / Idaho Power / 1301 / Carstensen / 2.

2. Consideration of any pollution control equipment in use at the source (which affects the availability of options and their impacts)

3. The costs of compliance with the control options

4. The remaining useful life of the facility

5. The energy and non-air quality environmental impacts of compliance

6. The degree of visibility improvement which may reasonably be anticipated from the use of BART[15]

The fourth item on this list is the remaining useful life of the facility. This should be a critical piece of the analysis, since BART looks at the cost effectiveness of pollution control in terms of tons of pollution removed by the control. A long useful life will require significantly more pollution control, as the control has many more years to reduce tons of pollution. Similarly, a short useful life will require less pollution control, since the pollution control investment will have less time to reduce pollution. For example, PacifiCorp states that the SCR analysis might make Bridger 3 a candidate for gas conversion. If this determination was made before spending money on BART, this new closure/conversion date would affect the cost effectiveness of pollution control and might lead to less or little BART investment.

The first analysis from CH2M HILL did not provide any analysis of how the useful life would influence the cost effectiveness of various pollution control options. Instead, it simply assigned a 20 year useful life to all measures:

> Jim Bridger 3 was placed in service in 1976. Its current economic depreciation life is through 2040; however, this analysis is based on a 20 year life for BART control technologies. Assuming a BART implementation date of 2014, this will result in an approximate remaining

[15] UE 233 / Idaho Power / 1301 / Carstensen / 2-3.

> useful life for Jim Bridger 3 of 20 years from the installation date of any new or modified BART-related equipment.[16]

Thus the Company failed to even analyze whether a change in the closure date would lead to a lower cost investment.

D. The Analysis Failed to Take Into Account Additional Costs Associated With the Plant

The CH2M HILL study "does not attempt to quantify any additional life extension costs needed to allow the unit and these control devices at Jim Bridger 3 to operate until 2040."[17] The analysis was limited to BART and did not include any consideration of the requirements of carbon regulation, MATS, or any other investment that might be made in the plant. It did not attempt to consider whether the plant was still a cost effective generating unit when all expected investments are considered. It did not even consider whether other additional investments would be necessary. Most of all, it failed to evaluate, in the context of pollution control investments, whether the use of alternative resources would in fact be the least cost investment for customers.

E. The Company Considered Alternative Investment Only in the Context of a Turbine Upgrade

CUB Confidential Exhibit (DR 36) shows that Idaho Power did consider alternative investments in natural gas, wind, and geothermal generation when it was considering a turbine upgrade at Bridger Unit 3. The capital cost of this investment is less than the cost of the BART controls and would allow the plant to increase its output. The Company conducted an analysis of whether that investment was cost effective when compared to

[16] UE 233 / Idaho Power / 1301 / Carstensen / 13.
[17] *Ibid*.

other alternatives, but the analysis was not sophisticated enough to provide much information, as it failed to consider whether pollution control investment and carbon regulation costs could reduce the life of the plant. The analysis does, however, demonstrate a recognition on the part of Idaho Power of the need to compare investments in existing generation with alternative investments in generation in order to determine which investment is least-cost—at least in some cases.

III. The Costs At Issue In This Docket Cannot Be Determined to Be Prudent

Whether investment costs related to pollution control can be evaluated and determined to be prudent is not a new issue. CUB and the OPUC saw similar issues arise related to the Boardman coal plant owned by PGE and Idaho Power. In the case of Boardman, the projected overall cost of new investments and O&M was about $500 million. This figure resulted in PGE analyzing and considering alternatives and led to PGE's determination that the least cost least risk approach was to phase out Boardman by 2020—a solution that meets BART Regional Haze Standards while saving customers approximately $200 million. Because Idaho Power is a part-owner of Boardman, its customers will also see reduced costs due to the cost-effective decision to close Boardman. Even with this knowledge, Idaho Power has still failed to consider the full range of available options for Bridger Unit 3.

Idaho Power has not conducted the analysis that PGE conducted for Boardman and, as a result, Idaho Power has continued to make new investments in Bridger without determining whether the total cost of all investments in Bridger was prudent. It has then sought to add the costs of those unanalyzed—and therefore imprudent—investments into rates. Prudence is all about what the company knew, or should have known, at the time it made its decision to enter into these investments.[18] Idaho Power, as a result of its own lack of studies, clearly did not know enough to enter into these investments. The Company failed to engage in the needed analysis and should not now be rewarded for its lack of due diligence and imprudent behavior in this matter by an increase in rates.

In this docket, Idaho Power is asking that $8.2 million of additional investment in Bridger be accepted as prudent. The Company has promised to provide the necessary analysis that will allow parties to determine whether it is cost-effective to add hundreds of millions of dollars more to rates for Bridger Unit 3 as part of an IRP Update later this year. But this later analysis will do nothing to change the fact that, prior to spending the currently requested $8.2 million, Idaho Power acted imprudently by not conducting the necessary analysis.

As noted above, prudence is based on what the Company knew, or should have known, at the time it made the decision to make an investment. An analysis that occurs

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[18] Under Oregon law, the utility bears the burden to show that the proposed rate change is just and reasonable. ORS 757.210. When evaluating the prudency of a utility's actions, the OPUC has consistently articulated and applied the following standard:

> In a prudence review, the Commission examines the objective reasonableness of a company's actions measured at the time the company acted: "Prudence is determined by the reasonableness of the actions 'based on information that was available (***or could reasonably have been available***) at the time.'" *In re PacifiCorp*, UM 995/UE 121/UC 578, Order No. 02-469 at 4 (emphasis added); *See also In re PGE*, UM 196, Order No. 10-051 at 5-6; *In re PGE*, UE 102, Order No. 99-033 at 36-37; *In re Transition Costs*, UM 834, Order No. 98-353 at 9.

In a prudence review, the Commission is careful to examine not only the actions a utility took, but also the actions that a utility *should have taken*. For example, in *In Re PacifiCorp*, UE 200, Order No. 08-548 at 19-20, the Commission discussed PacifiCorp's Rolling Hills wind project. Specifically, the Commission found that PacifiCorp failed to act within the applicable Major Resource acquisition Guidelines in developing the project, which includes a requirement for utility's to issue an RFP for certain resource acquisitions and review of proposals received. Because PacifiCorp failed to issue an RFP and seek review of the proposals received as required by the Guidelines, and subsequently failed to meet its burden of persuasion with regard to the prudency of its actions taken outside of the guidelines, the Commission declared the project to be imprudent and denied cost recovery for the resource.

later in time has the potential to determine whether additional investments in Bridger are cost-effective, but sheds little light on whether the Company acted prudently when it first decided to invest millions of dollars in this plant for pollution control, without first determining whether such investment, in the context of all the investment needed in the plant, was reasonable, and without also determining whether it would be more reasonable to invest in alternative resources. Quite simply, Idaho Power acted imprudently by committing to invest dollars in this coal unit without first determining that such an investment was cost effective.

The later investment analysis might also be helpful to identify the financial harm (or lack thereof) of the Company's imprudence, but again, it cannot change the fact that the Company acted imprudently by investing millions of dollars in a power plant without determining if that investment was cost-effective.

The Commission should find the $8.2 million in costs incurred by Idaho Power imprudent, order the Company to remove them from rate base in the next tariff update, and order the Company to return the deferred costs to customers. While a strong argument can be made that all investments made in Bridger Unit 3 over the last few years should be found to be imprudent and removed from rates, at this time CUB is only seeking to have the additional rate base associated with this docket's test year affected by the order requested above. CUB is not asking that any additional changes be made to the Bridger rate base beyond those sought in the first phase of this docket and ordered in accordance with the Partial Stipulation filed on February 1, 2012.

The coal study that Idaho Power is finally undertaking will help going forward. It will help parties determine whether it is cost effective to continue to invest in the plant, whether the plant should be converted to gas like Naughton 3 or closed like Boardman. It will quantify the harm to customers from investments that were made without reasonable prudent analysis. It will also help parties determine what the useful life of the plant should be for ratemaking purposes and what costs should be considered for ratemaking. The study will not, however, change the fact that Idaho Power acted imprudently by committing large sums of dollars to a coal-fired power plant without first determining the useful life of that plant when clean air and carbon regulations are considered.

IV. Conclusion

CUB respectfully requests that the Commission find that Idaho Power acted imprudently in continuing to make clean air investments in Jim Bridger Unit 3 without first conducting an analysis to determine whether such investment was the least cost means for moving forward. Customers should not, therefore, incur the costs associated with these clean air investments, and such costs must be refunded to customers. CUB further requests that the Commission reiterate that customers cannot, as a matter of law or policy, be charged for imprudent investments, and certainly will not be in this docket.

In making its decision the Commission should be aware that the amount of money at stake for Oregon customers in this docket is negligible—only $27,500 on an annual basis.[19] Thus, Idaho Power will not suffer significant financial difficulties due to a disallowance of these investments, nor is the Company's credit rating likely to be downgraded. In fact, CUB's concern over this docket is less about the money than it is about the precedent that the Commission's Order could set. The Commission has an

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[19] UM 1583, Idaho Power Application for Deferred Accounting of Bridger Pollution Control Investments, page 2.

opportunity here to send a message to Idaho Power, and to all the other electric utilities, that continued investment in coal-fired electric generation plants must be supported by analysis showing that the investments are cost-effective in the context of all the investment needed in the plant and that it would not be more reasonable to invest in alternative resources. The Commission can also demonstrate through the order issued in this docket that companies that fail to provide the required analysis will not be rewarded for their lack of due diligence and imprudent behavior. In an era of increasingly costly regulations for coal plants, this requirement should be the new norm.

CUB EXHIBIT 201 IS CONFIDENTIAL
SUBJECT TO PROTECTIVE ORDER NO. 11-288

IDAHO POWER®
An IDACORP Company

February 3, 2012

Subject: Docket No. UE 233
Idaho Power Company's Response to the Citizens' Utility Board of Oregon's ("CUB") Data Request 36

CUB'S DATA REQUEST NO. 36:

Idaho Power's responses to CUB data requests 33 and 34 listed past expenditures and anticipated future expenditures related to capital and O&M at the Bridger coal plant. Please provide any studies or evaluations that demonstrate the prudency of these expenditures as opposed to investment in alternative replacement generation. In the absence of existing studies or evaluations, please provide a new analysis that demonstrates this prudency versus that of resource alternatives, especially with regard to planned future expenditures.

IDAHO POWER COMPANY'S RESPONSE TO CUB'S DATA REQUEST NO. 36:

For CUB Data Request Nos. 33 and 34 that listed past expenditures and anticipated future expenditures related to capital and operations and maintenance at the Jim Bridger coal plant, Idaho Power Company ("Idaho Power") has not performed the requested studies or evaluations of all expenditures as opposed to investment in alternative replacement generation. However, the turbine upgrade projects listed in CUB Data Requests Nos. 33 and 34 were analyzed to compare the cost of the turbine upgrade projects to the next best alternatives. The summary of this confidential analysis is provided on the confidential CD.

Idaho Power has committed to perform a unit-by-unit analysis that will be part of the 2011 Integrated Resource Plan update and will include costs for compliance with any enacted or anticipated environmental legislation and regulations that may be identified as impacting Idaho Power's coal generating resources.

The Excel file produced in response to this Request is confidential and will be provided separately in accordance with Modified Protective Order No. 11-419.

UE 233 – CERTIFICATE OF SERVICE

I hereby certify that, on this 1st day of May, 2012, I served the foregoing **SUPPLEMENTAL TESTIMONY OF THE CITIZENS' UTILITY BOARD OF OREGON** in docket UE 233 upon each party listed in the UE 233 OPUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and five copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)
(HC denotes highly confidential)

(C denotes service of Confidential material authorized)

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