



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

May 21, 2009

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
Salem, OR 97301-2551

Attention: Filing Center

RE: Docket UA 141 and UA 143 – PacifiCorp’s Explanatory Statement

PacifiCorp d/b/a Pacific Power (the “Company”) encloses for filing its Explanatory Statement in the above-referenced proceedings.

Questions on this matter may be directed to Joelle Steward, Regulatory Manager, at (503) 813-5542.

Sincerely,

A handwritten signature in black ink that reads "Andrea L. Kelly" followed by a stylized flourish.

Andrea L. Kelly
Vice President, Regulation
PacifiCorp

Cc: Service List UA-141, UA-143

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2009, I caused to be served, via E-Mail and US Mail (to those parties who have not waived paper service), a true and correct copy of the foregoing document on the following named person(s) at his or her last-known address(es) indicated below.

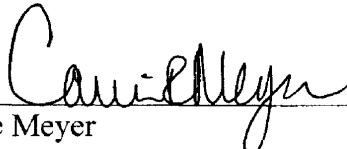
SERVICE LIST UA-141, UA-143

Oregon Dockets
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232
oregondockets@pacificorp.com

Raymond S. Kindley
Cable Huston Benedict Haagenen &
Lloyd, LLP
1001 SW Fifth Ave, Suite 2000
Portland, OR 97204-1136
rkindley@cablehuston.com

Michelle Mishoe
Pacific Power & Light
825 NE Multnomah St. Suite 1800
Portland, OR 97232
Michelle.mishoe@pacificorp.com

Jeff Davis
Wasco Electric Cooperative
PO Box 1700
The Dalles, OR 97058
jeffd@wascoelectric.com



Carrie Meyer
Coordinator, Administrative Services

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 141 & UA 143

In the Matters of

PACIFICORP, dba PACIFIC POWER
Application for Allocation of Exclusive
Service Territory (UA 141)

PACIFICORP'S EXPLANATORY
STATEMENT

and

WASCO ELECTRIC COOPERATIVE,
INC. Application for Allocation of
Exclusive Service Territory (UA 143)

1 Pursuant to the Prehearing Conference Memorandum issued May 8, 2009 in these
2 dockets, PacifiCorp, d.b.a. Pacific Power ("PacifiCorp" or "Company") submits this
3 explanatory statement. As an initial matter, the Company believes that applicable statutes
4 and Public Utility Commission of Oregon ("Commission") policies establish that the
5 appropriate mechanism for determining allocation of service territory is for parties to
6 voluntarily reach agreement and present the Commission with a contract for approval.
7 The Company's preference is to work with Wasco Electric Cooperative, Inc., to reach
8 agreement on how to allocate the service territory at issue in these proceedings.
9 Additionally, the Company requests that the procedural schedule in these proceedings be
10 established to allow for such consultation between the parties.

11 **I. Procedural History**

12 On January 16, 2009, the Company initially filed with the Commission an
13 application to exclusively provide retail electric service to certain portions of Sherman
14 County, Oregon ("Company Application"), referred to in the Company Application as the
15 "Hay Canyon" area. The Company Application became Docket UA 141. The Company

1 withdrew the Company Application on February 2, 2009. On February 4, 2009, Wasco
2 Electric Cooperative, Inc. (“WEC”) filed a letter objecting to the Company Application
3 and requesting either termination of the proceeding or a hearing. That same day, WEC
4 filed with the Commission an application to exclusively provide electric utility service in
5 portions of Sherman County, Oregon (“WEC Application”), referred to in the WEC
6 Application as the “Hay Canyon” area. WEC’s Application became Docket UA 143.

7 WEC filed an amended application on February 9, 2009. On March 30, 2009, the
8 Company filed a petition to intervene, motion to dismiss and request for hearing in
9 Docket UA 143. The Company filed a motion to reopen Docket UA 141 on April 2,
10 2009. WEC filed a second amendment to the WEC Application on April 7, 2009. On
11 April 13, 2009, WEC filed a reply to the Company’s motion to dismiss and request for
12 hearing. On April 14, 2009, WEC filed a third amendment to the WEC Application. On
13 April 24, 2009, WEC filed a petition to intervene in Docket UA 141.

14 A joint prehearing conference was held on May 7, 2009, for Dockets UA 141 and
15 UA 143. Administrative Law Judge Power issued a prehearing conference order May 8,
16 2009, stating that the Company may file an explanatory statement containing factual
17 information regarding certain issues raised in both the Company Application and WEC
18 Application regarding a wind farm in the Hay Canyon area.

19 **II. Applicable Statutes and Commission Authority**

20 The Oregon service territory allocation statutes, ORS 758.400 through ORS
21 758.475, allow for the designation of exclusive service territory to implement the state’s
22 policy of eliminating and preventing duplication of facilities. These statutes grant the
23 Commission authority to regulate exclusive service territories as part of the

1 Commission’s duty to ensure utilities provide adequate and reliable service to customers,
2 while safely operating facilities.

3 These statutes provide several mechanisms for acquiring exclusive service
4 territory. Persons offering similar utility service may contract with each other for the
5 purpose of allocating territory and customers. ORS 758.410(1). Such contract may
6 include all or a portion of the territories and customers being served by either or both
7 utilities, or which could be economically served by then existing facilities of either party,
8 or reasonable and economic extension to facilities. *Id.* To be considered a valid contract,
9 utilities must present it to the Commission for approval. ORS 758.415. The Commission
10 must conduct a hearing to determine whether the contract will eliminate or avoid the
11 unnecessary duplication of facilities, and promote the “efficient and economic use and
12 development and the safety of operation of the utility systems of the parties to the
13 contract, while providing adequate and reasonable service to all territories and customers
14 affected thereby.” *Id.* If the Commission finds evidence to support this, the Commission
15 shall approve the contract.

16 Another mechanism for allocating service territory allows a person providing
17 utility service in a territory not served by another person providing similar utility service
18 to apply to the Commission for exclusive service territory allocation. ORS 758.435(1).
19 Such an application may include adjacent areas that would be more economical and
20 feasible for the applicant to serve. *Id.* The Commission must approve, disapprove the
21 application as filed or amended, and include findings of fact to support the decision. ORS
22 758.440(1). Before approving an application for exclusive service territory, the
23 Commission must find that the applicant is exclusively serving the territory at issue in the

1 application; and for adjacent unserved territory, it is more economical and feasible for the
2 applicant to serve the area, either through extension of applicant's existing facilities or
3 extension of another person's facilities. ORS 758.440(2).

4 ORS 758.450(1) contains a third mechanism for service territory allocation. This
5 provision states, "territory served by more than one person providing similar utility
6 service may only become an allocated territory by a contract approved by the Public
7 Utility Commission." A Commission interoffice memorandum dated June 28, 1991
8 ("1991 Interoffice Memo"), states that this provision is technically not a third mechanism
9 for allocating service territory, but a codification of the policy that no utility may acquire
10 the service territory of another utility, except by contract under ORS 758.410. The
11 Commission expressed its agreement with the 1991 Interoffice Memo in Order No. 98-
12 546, Dockets UA 58/UA 60.

13 Number of methods of allocating service territory aside, the Commission's clear
14 preferences for allocating exclusive territory are either by a single person or entity
15 exclusively serving an area submitting an application for Commission approval; or by
16 multiple parties serving an area submitting a contract for Commission approval. The
17 statutes do not contemplate a situation where multiple parties submit competing
18 applications for exclusive service territory in the same area. In situations where more than
19 one utility provides service in an area, the appropriate method for allocating that area is
20 for the parties to voluntarily reach agreement and present a contract to the Commission
21 for approval.

22 **III. Discussion**

23 PacifiCorp is an electric public utility subject to the Commission's jurisdiction.

1 PacifiCorp provides retail electric service to customers in California, Idaho, Oregon,
2 Utah, Washington and Wyoming. In Oregon, the Company provides retail electric service
3 within a defined service territory approved by the Commission. The Company also
4 provides retail electric service to portions of Sherman County, Oregon, which are not
5 currently allocated to any electric utility. At issue in these proceedings is an unallocated
6 area referred to as “Hay Canyon.”

7 The Hay Canyon area is comprised of approximately 10 square miles of rural
8 terrain. The Company currently provides residential and/or agricultural electric service to
9 four retail customers in the Hay Canyon area. Additionally, the Company holds a
10 franchise agreement with the City of Wasco, which is located in the Hay Canyon area.
11 The Company has a vee-phase line which serves the Hay Canyon substation and the
12 Iberdrola Hay Canyon maintenance building. A vee-phase line consists of two phase
13 conductors and a neutral. The Company Application filed January 16, 2009 reflects the
14 Company’s position based on the facts known to the Company at the time of filing.

15 Prior to filing the Company Application, the Company understood that a portion
16 of Iberdrola Renewable’s (“Iberdrola”) wind farm in the Hay Canyon area was situated in
17 WEC’s allocated service territory; and a portion, including the service meter, was situated
18 in an unallocated area that is served by the Company. Through discussions with WEC,
19 the Company believed WEC was not prepared to provide service to the wind farm. The
20 Company also held discussions with the Bonneville Power Administration (“BPA”). BPA
21 was aware of the service territory issue and was willing to divide the wind farm station
22 service load if the two parties so desired. BPA required a written agreement between the
23 two parties and was willing to provide access to BPA’s transmission system to either or

1 both parties. The Company's Application requesting allocation of the Hay Canyon area
2 included a portion of the wind farm and what the Company believed to be the metering
3 point; and adjacent areas to include customers currently served by the Company.
4 Subsequently, BPA notified the Company of its ability to deliver power and energy for
5 Iberdrola's wind farm located in the Hay Canyon area to allow both the Company and
6 WEC to provide service to the wind farm. In light of this new information, the Company
7 voluntarily withdrew its application in Docket UA 141.

8 Two days after the Company withdrew its application, WEC filed its application
9 for allocation of exclusive service territory in the Hay Canyon area, requesting what the
10 Company believed to be an identical area to that requested by the Company in its
11 application. WEC subsequently amended its application three times. WEC also indicated
12 it serves two customers in the unallocated area. The Company petitioned to intervene in
13 Docket UA 143 and moved to reopen Docket UA 141 to protect its interest in the Hay
14 Canyon area.

15 After further review of the Company's records and publicly available information,
16 the relevant facts appear to be as follows:

17 Iberdrola owns the 100-megawatt Hay Canyon wind farm near the City of Wasco.
18 31 of the 48 wind turbines are located within WEC's designated service territory, while
19 the remaining 17 are located within a territory that is currently unallocated to any utility.
20 The Company currently serves four retail customers in the unallocated territory via a two-
21 phase 20.8 kilovolt ("kV") distribution feeder extending from its Gordon Hollow
22 substation. The Company serves the Hay Canyon Substation and Iberdrola's maintenance
23 building. The Company's 20.8 kV distribution line, Gordon Hollow 4K1, extends into the

1 unallocated service territory and serves Iberdrola's Hay Canyon substation's single-phase
2 load (lights and battery chargers), but is not adequate to serve the idle station backup
3 service. The Company's other three retail customers are residential and/or agricultural.

4 The Hay Canyon wind farm is metered out of Iberdrola's Klondike Schoolhouse
5 substation, which is situated in WEC's exclusive service territory. WEC currently accepts
6 the output of the wind farm, and provides idle station backup service via one of two
7 sources: 1) via BPA's 230 kV line from BPA's John Day substation to Iberdrola's
8 Klondike Schoolhouse substation, with both substations located within WEC's exclusive
9 service territory, or 2) via WEC's 115 kV line from BPA's DeMoss substation to
10 Iberdrola's Klondike Schoolhouse substation. While BPA's DeMoss substation lies
11 within the Company's exclusive service territory, WEC owns the 115 kV transmission
12 line from BPA DeMoss substation to Klondike Schoolhouse substation. Any electricity
13 being wheeled from BPA DeMoss substation would necessarily be carried by this
14 transmission line. Please refer to Attachment A for a diagram depicting the above.

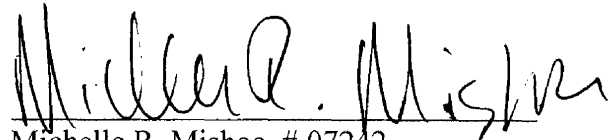
15 The Company filed its application for exclusive service territory to incorporate its
16 existing customers into its designated service territory, and it does not desire to serve the
17 Iberdrola wind farm by either accepting the output or providing idle station backup
18 service, provided that the facts described above regarding service to the wind farm can be
19 verified. The Company believes that these proceedings should determine whether the
20 facts are as presented above.

21 If the facts regarding the Iberdrola wind farm are determined to be as presented
22 above, there still remains areas of overlap between the Company's and WEC's
23 applications, and the service territory in Hay Canyon to current customers needs to be

1 clarified. As discussed above, the Company believes that applicable statutes and
2 Commission policies establish that the appropriate mechanism for determining the
3 allocation of service territory in the Hay Canyon area is for the parties to voluntarily
4 reach agreement and present the Commission with a contract for approval. The
5 Company's preference is to work with WEC to reach agreement on how to allocate the
6 Hay Canyon area and requests that the procedural schedule in these proceedings be
7 established to allow for such consultation between parties.

DATED: May 21, 2009.

Respectfully submitted,

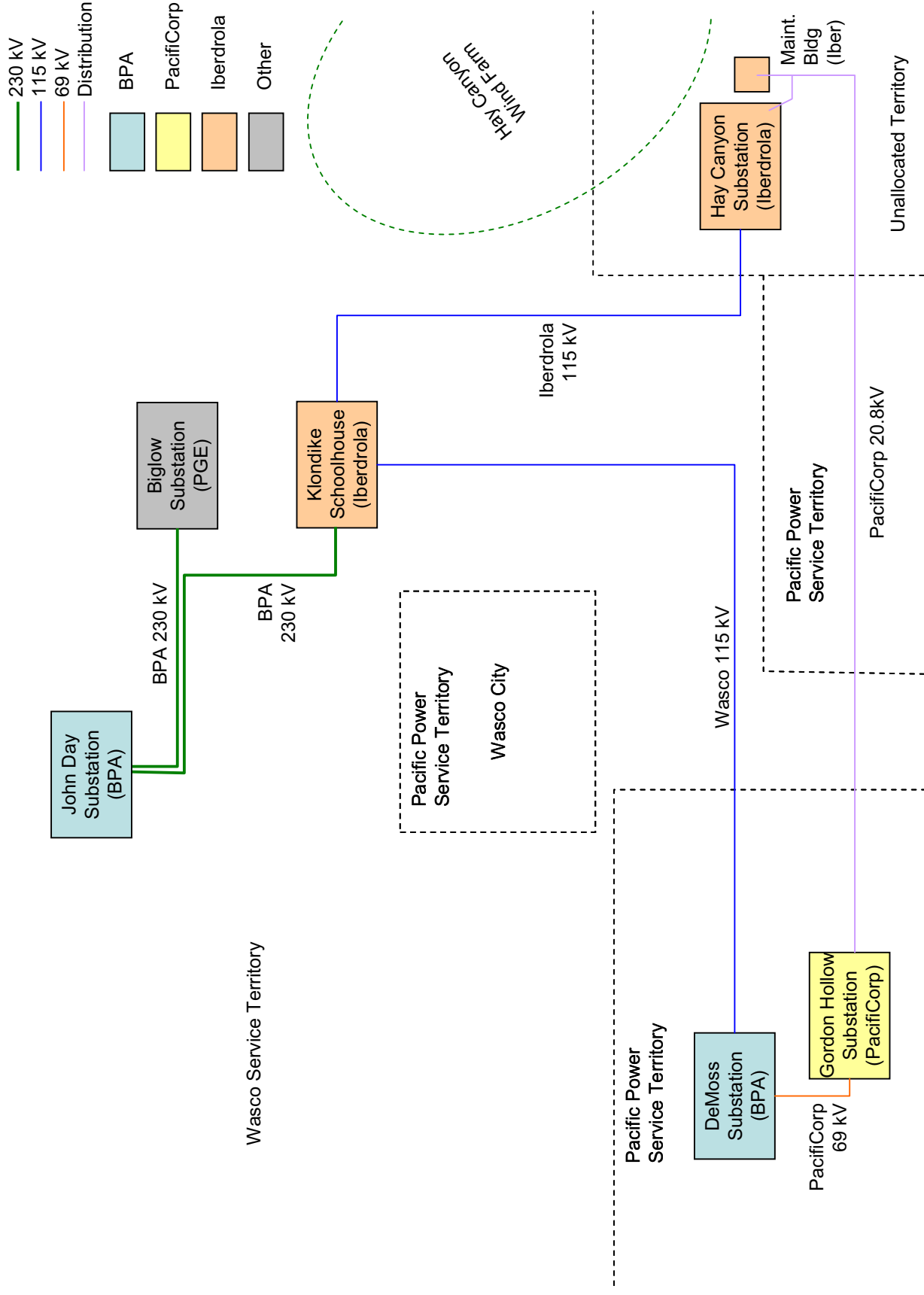


Michelle R. Mishoe, # 07242
Legal Counsel, Pacific Power

Counsel for PacifiCorp

Attachment A

Hay Canyon Area — Simplified Diagram (not to scale)



- 230 kV
- 115 kV
- 69 kV
- Distribution
- BPA
- PacifiCorp
- Iberdrola
- Other