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**CABLE HUSTON**  
CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP ■ ATTORNEYS

RAYMOND S. KINDLEY  
ADMITTED IN OREGON AND WASHINGTON  
(503) 224-3092

[rkindley@cablehuston.com](mailto:rkindley@cablehuston.com)  
[www.cablehuston.com](http://www.cablehuston.com)

April 24, 2009

**VIA ELECTRONIC FILING  
& FIRST CLASS MAIL**

Oregon Public Utilities Commission  
Filing Center  
550 Capitol Street NE, Ste 215  
Salem, OR 97301-2551

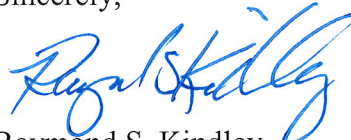
Re: *In the Matter of PACIFICORP, dba PACIFIC POWER Application for Allocation  
of Exclusive Service Territory*  
Docket No. UA 141

Dear Filing Center:

Enclosed for filing are an original and one copy of Wasco Electric Cooperative, Inc.'s ("Wasco") Petition to Intervene in the above-referenced proceeding.

If you have any questions concerning this filing, please contact the undersigned.

Sincerely,



Raymond S. Kindley  
Attorney for Wasco Electric Cooperative, Inc.

RSK/tb  
Enclosures  
cc: Jeff Davis, General Manager, Wasco Electric Cooperative, Inc.

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UA 141**

In the Matter of PACIFICORP, d.b.a.	)	
PACIFIC POWER, Application for	)	Petition to Intervene
Allocation of Exclusive Service Territory	)	of Wasco Electric Cooperative, Inc.
_____	)	

Wasco Electric Cooperative, Inc., (“Wasco”) respectfully petitions to intervene in the above listed proceeding pursuant to OAR 756.525 and OAR 860-012-0001.

**I. Information About Wasco**

Wasco is an electric cooperative organized and operated under the laws of the state of Oregon. The name and address of Wasco are:

Wasco Electric Cooperative, Inc.  
105 E. 4<sup>th</sup> St.  
P.O. Box 1700  
The Dalles, OR 97058

**II. Contact Information**

Communications concerning this proceeding should be addressed to:

Jeff Davis, General Manager  
Wasco Electric Cooperative, Inc.  
P.O. Box 1700  
The Dalles, OR 97058  
Ph: (541) 296-2740  
Fax: (541) 296-7781  
[jeffd@wascoelectric.com](mailto:jeffd@wascoelectric.com)

Raymond S. Kindley  
Cable, Huston, Benedict, Haagensen & Lloyd, LLP  
1001 SW Fifth Avenue, Suite 2000  
Portland, OR 97204-1136  
Ph: (503) 224-3092  
Fax: (503) 224-3176  
[rkindley@cablehuston.com](mailto:rkindley@cablehuston.com)

**III. Background**

On or about April 2, 2009, Pacific Power filed a motion to reopen this docket: UA 141. In its motion, Pacific Power notes that it voluntarily withdrew its prior application for exclusive service territory in the Hay Canyon area. Pacific Power filed its withdrawal on February 2,

2009. The Oregon Public Utilities Commission (“Commission”) issued an Order in this proceeding on February 9, 2009 that formally closed this docket.

On February 3, 2009, Pacific Power notified Wasco about the withdrawal of its application. In response to Pacific Power’s notice, Wasco filed its application for exclusive service territory on February 4, 2009 for the Hay Canyon area. Wasco’s application described a different area than what Pacific Power requested in its application. Wasco’s application intentionally excludes portions of the Hay Canyon area that contain current customers of Pacific Power.

In its Motion to Reopen this docket, Pacific Power claims that (i) its primary purpose for seeking exclusive service rights in the Hay Canyon area and for reopening this docket is to secure rights to provide service to that portion of the Iberdola wind farm that is not located in Wasco’s exclusive service territory and (ii) Pacific Power is constructing additional facilities to provide new service in the Hay Canyon area.

Pacific Power also claims that Wasco informed Pacific Power that Wasco “was not prepared to provide service to the portion of the wind farm in WEC’s territory.” Pacific Power alleges that it therefore filed its application with the Commission. Pacific Power states that after its filing, Bonneville notified Pacific Power of Bonneville’s ability to provide power for the Iberdola wind farm via both Pacific Power and Wasco. Pacific Power further claims that it withdrew its application to commence a dialogue with Wasco regarding service to the area.

Pacific Power’s motion provides false and misleading information. Wasco approached Pacific Power in mid-2008 about jointly serving the Iberdola wind farm. Wasco was under the initial belief that Pacific Power had exclusive service rights in the Hay Canyon area. Wasco

management even met with Paul Graham, Assistant Attorney General for the Commission, to discuss how Wasco and Pacific Power should jointly serve the wind farm.

At no time did Wasco notify Pacific Power that it was not ready to provide service to Iberdrola wind generators located in Wasco's exclusive service territory. After the initial contacts between Wasco's General Manager and Pacific Power's local representatives in the summer of 2008, Pacific Power did not take any action to discuss with Wasco about jointly serving the Hay Canyon area.

In November 2008, Wasco management learned that Pacific Power did not have exclusive service rights in the Hay Canyon area. Bonneville also notified Wasco in November that Iberdrola's wind farm needed service in the middle of December, 2008. Thus, Wasco needed to inform Bonneville if Wasco was going to serve the entire load. Wasco decided to serve the entire load and arranged with Bonneville for Wasco to serve the entire load.

Wasco has provided electrical service since December 18, 2008 to Iberdrola for all of the wind generation units located in Wasco's exclusive service territory *and* in the unallocated territory that Pacific Power is now applying for.

The electric service that Wasco provides is three phase power used by Iberdrola to heat and operate its wind generators. Wasco supplies power for the Iberdrola wind farm pursuant to Wasco's current power purchase agreement with Bonneville. The point of interconnection between Iberdrola's interconnection facilities wind farm and Wasco's/Bonneville's facilities is at the School House substation, which is located in Wasco's exclusive service territory. Iberdrola is a member of Wasco.

#### **IV. Wasco's Interest In Pacific Power's Application**

To the extent that Pacific Power seeks to serve the Iberdrola wind generators, it is attempting to interfere with an existing member and customer of Wasco Electric Cooperative. Wasco has served Iberdrola since December 18, 2008, which is almost a month prior to January 16, 2009 when Pacific Power filed its initial petition for exclusive service territory for the Hay Canyon area. If the Commission grants Pacific Power's application for exclusive service territory, that decision will interfere with Wasco's existing contract rights with Bonneville and with Iberdrola.

Wasco filed on February 4, 2009 its Application for Exclusive Service Territory for portions of the Hay Canyon area that exclude Pacific Power's current customers. That application is pending before the Commission in the proceeding UA 143. Pacific Power's motion to reopen this closed proceeding is basically a request for Commission to conduct a competing proceeding for territory for which Wasco has already filed an application. Thus, Wasco has a direct interest in the Commission's decision to reopen this proceeding as it relates to the Commission's determinations in UA 143.

Pacific Power's initial application and its motion to reopen include areas in Hay Canyon where Wasco provides retail electric serves to other long-term members of Wasco. In Wasco's letter dated February 3, 2009 it filed in UA 141, Wasco notified Pacific Power and the Commission that Wasco had members and customers located in the area that Pacific Power wanted to obtain exclusive service territory. Pacific Power's motion to reopen UA 141, which includes a new legal description, seeks to reopen a proceeding for exclusive service territory that still includes existing customers of Wasco.

The Commission lacks statutory authority to grant Pacific Power's request for exclusive territory in the Hay Canyon area. Pacific Power filed its initial application for the Hay Canyon area pursuant to ORS 758.435 and OAR 860-025-0020. ORS 758.435 provides that the Commission may allocate territory to an applicant under this statute, but only if the territory is not served by another utility providing similar utility service. The Commission cannot provide Pacific Power exclusive service rights in Hay Canyon area because Wasco does provide service to customers located within the boundaries of the area Pacific Power has applied for.

Also, Pacific Power cannot comply with OAR 860-025-0020. Section (4) of OAR 860-025-0020 requires an applicant to declare "no other person is providing similar utility service within such territory." Pacific Power cannot truthfully make the required declaration.

In short, Pacific Power's initial application and its motion to reopen that initial application are defective because the Commission has no authority under ORS 758.435 to grant Pacific Power's application. Reopening the proceedings will not cure Pacific Power's error or grant the Commission any broader statutory authority. Wasco has a direct and immediate interest in the Commission complying with the requirements of ORS 758.435 in this proceeding.

Pacific Power's Motion to Reopen states that Pacific Power "is building facilities to accommodate more customers." Pursuant to ORS 758.450(3), during the pendency of an application for an allocation of exclusive service territory, no person other than the applicant shall offer, construct or extend utility service in or into the territory applied. The purpose of ORS 758.450(3) is to protect the interest of the applicant during the pendency of an application before the Commission.

Here, Wasco has an application pending before the Commission for the Hay Canyon area. Pacific Power is violating ORS 758.450(3) if it is constructing new facilities to serve

customers in the area for which Wasco has applied for. Pacific Power's actions, if true, harm the statutorily protected interest of Wasco.

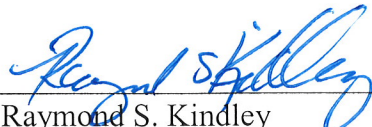
Pacific Power has apparently advanced this claim of constructing facilities to support its motion for reopening this proceeding. Wasco has a direct interest in challenging these claims by Pacific Power and to argue, if the claims are true, Pacific Power's actions are illegal and do not provide a legal basis for the Commission to grant exclusive service rights to Pacific Power in the Hay Canyon area.

In summary, Pacific Power seeks to reopen a closed proceeding based on false and misleading facts and based on statutory provisions that do not provide the Commission with authority to grant Pacific Power's requested exclusive service rights. Wasco's operations and contracts, and the service arrangements between Wasco and its current members in the Hay Canyon area would be directly affected by the Commission's decisions in this proceeding. No other party can adequately represent Wasco's interests in this proceeding.

WHEREFORE, for the above listed reasons, Wasco respectfully requests the Commission to grant this Petition to Intervene.

DATED this 24<sup>th</sup> day of April, 2009.

Respectfully submitted,

  
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Raymond S. Kindley  
Cable Huston Benedict Haagensen  
& Lloyd LLP  
1001 SW 5th Avenue, Suite 2000  
Portland, OR 97204

Of Attorneys for  
Wasco Electric Cooperative, Inc.

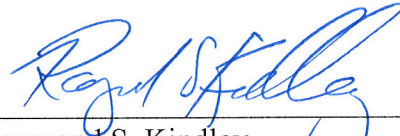
**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **PETITION TO INTERVENE OF WASCO ELECTRIC COOPERATIVE** via electronic mail and/or First Class Mail on the Service List below:

PACIFIC POWER OREGON DOCKETS  
825 NE MULTNOMAH ST., STE. 2000  
PORTLAND, OR 97232  
[oregondockets@pacificorp.com](mailto:oregondockets@pacificorp.com)

MICHELLE R MISHOE  
LEGAL COUNSEL  
825 NE MULTNOMAH ST., STE. 2000  
PORTLAND, OR 97232  
[Michelle.mishoe@pacificorp.com](mailto:Michelle.mishoe@pacificorp.com)

DATED this 24<sup>th</sup> day of April, 2009.



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Raymond S. Kindley  
CABLE HUSTON BENEDICT  
& HAAGENSEN & LLOYD LLP  
1001 SW 5<sup>th</sup> Avenue, Suite 2000  
Portland, OR 97204  
(503) 224-3092  
(503) 224-3176 (fax)  
[rkindley@cablehuston.com](mailto:rkindley@cablehuston.com)

Of Attorneys for  
Wasco Electric Cooperative, Inc.