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October 18, 2010

VIA ELECTRONIC AND U.S. MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

**Re: UE 216 – PacifiCorp's Reply to ICNU and CUB Responses in Opposition to
Motion for Modified Protective Order**

Attention Filing Center:

Enclosed for filing in the captioned docket are the original and one copy of PacifiCorp's Reply to ICNU and CUB Responses in opposition to Motion for Modified Protective Order. A copy of this filing was served on all parties to this proceeding as indicated on the attached Certificate of Service.

Very truly yours,

A handwritten signature in black ink, appearing to be "Katherine McDowell", written over a horizontal line.

Katherine McDowell

cc: Service List

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document in
UE 216 on the following named person(s) on the date indicated below by email addressed
to said person(s) at his or her last-known address(es) indicated below.

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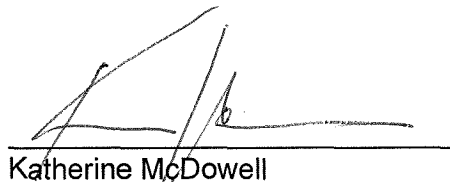
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DATED: October 18, 2010



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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

In the Matter of:

PACIFICORP, dba PACIFIC POWER
2011 Transition Adjustment Mechanism
Schedule 201, Cost-Based Supply
Service

**PACIFICORP'S REPLY TO ICNU AND
CUB RESPONSES IN OPPOSITION TO
MOTION FOR MODIFIED PROTECTIVE
ORDER**

Pursuant to OAR 860-013-0031 and 860-013-0050(d) PacifiCorp d/b/a Pacific Power (the Company) requests leave to submit this Reply to the Industrial Customers of Northwest Utilities' (ICNU) Reply to In Opposition to Motion for Modified Protective Order (ICNU Reply) and the Citizens' Utility Board's (CUB) Reply to PacifiCorp's Motion for Modified Protective Order (CUB Reply). PacifiCorp requests that the Commission consider the following points in Reply to ICNU's and CUB's opposition to PacifiCorp's Motion:

1. In an effort to address concerns expressed by ICNU and CUB regarding PacifiCorp's Motion to Modified Protective Order, the Company has taken two important steps:

First, to resolve this discovery dispute, PacifiCorp will agree to designate the data directly related to the Official Forward Price Curve (OFPC) used to set final rates in this proceeding—primary market data for the year-ahead test period—as Confidential.¹ PacifiCorp has developed a new spreadsheet that removes other price curve information, including information related to secondary markets and information that goes beyond the year-ahead time frame modeled in the Transition Adjustment Mechanism (TAM). While PacifiCorp does not believe that information related to secondary markets or long-term information related to primary markets is relevant or responsive to ICNU's pending discovery, to the extent that

¹ As discussed in more detail below, the Company's OFPC used in the TAM is based upon year-ahead market prices in PacifiCorp's primary markets. While two secondary markets, Mona and Four Corners, are modeled in GRID, they are not used to calculate the OFPC.

1 ICNU or another party seeks this data, PacifiCorp would designate only this information as
2 Highly Confidential. PacifiCorp has amended its proposed language for the Modified
3 Protective Order to reflect the significant narrowing of the Highly Confidential designation.

4 Second, the Company met with CUB today to review and explain the Confidential and
5 Highly Confidential information related to forward price curves. The Company has already
6 held similar meetings with Staff and ICNU. While ICNU states in its Reply that "Staff may also
7 wish to review this information," Staff has in fact reviewed this information and, unlike ICNU,
8 has not sought to obtain copies of it for further review. ICNU Reply at 6.

9 2. CUB opposed the Company's Motion because it believed that the Company
10 sought to designate as Highly Confidential the Company's OFPC and the broker quotes used
11 to develop that curve. To clarify, the Company is not seeking to make its OFPC and broker
12 quotes Highly Confidential. The Company intends to continue to provide the actual Official
13 Forward Price Curve and supporting broker quotes on a Confidential basis, consistent with the
14 treatment of these documents in this and past TAM dockets.

15 3. CUB's Reply references its testimony in UE 191, PacifiCorp's 2008 TAM docket.
16 CUB Reply at 2. This testimony led to the Company's agreement, memorialized in Order 09-
17 274, to provide the OFPC and broker quotes that support the curve used in the Final Update.
18 See Order No. 09-274, App. A at 19 ("The Company will provide broker quotes compared to
19 the Company's forward price curve used in the final net power cost update as soon as
20 practical."). As just stated, the Company does not seek any change with respect to the
21 confidentiality of the OFPC and the broker quotes. Indeed, in an effort to find a compromise
22 with ICNU, the Company provided ICNU broker quotes (on a confidential basis) for its July
23 TAM Update, which goes above and beyond the disclosures required by Order No. 09-274.

24 4. The Company is now seeking to designate as Highly Confidential only a very
25 small set of information: the detailed, underlying market analysis the Company uses to
26 analyze forward prices in secondary markets and information regarding long-term primary

1 market forward prices beyond the TAM test period. As explained in the attached Affidavit of
2 John Fritz, PacifiCorp's Director of Risk Management, PacifiCorp's OFPC used in the TAM is
3 based upon year-ahead market prices in PacifiCorp's primary markets. Forward prices in
4 PacifiCorp's secondary markets and in the primary markets beyond the year-ahead period are
5 not used to calculate the OFPC used in the TAM (although two of these secondary markets
6 are modeled in GRID). Affidavit of John Fritz at ¶ 3. In addition to being irrelevant to the
7 calculation of the OFPC, forward price information in the secondary markets is Highly
8 Confidential because the information reflects the Company's valuation of illiquid delivery
9 points. Affidavit of John Fritz at ¶ 5. This valuation analysis reflects the price that PacifiCorp
10 is willing to either purchase or sell these illiquid products. *Id.* Because these secondary
11 markets are not transparent to market participants and the analysis consists of the Company's
12 proprietary analysis, disclosure of this information would be extremely harmful to the
13 Company's customers. *Id.* at ¶¶ 5-6.

14 5. ICNU argues that the Company has disclosed the requested information in other
15 states and therefore cannot now claim that it is Highly Confidential. ICNU Reply at 9. The
16 Affidavit of John Fritz makes clear that this is untrue—the Company has never provided
17 detailed, trader-developed inputs to its OFPC or to its price curves for secondary markets to
18 any party in any jurisdiction except on a Highly Confidential basis (other than at the meetings
19 PacifiCorp held with ICNU, Staff and CUB in this case). Affidavit of John Fritz at ¶ 7. ICNU's
20 contention that the Company attempts to over-designate confidentiality in Oregon is also false.
21 The procedures the Company proposes here for handling the Highly Confidential information
22 here are the same procedures the Company uses in all of its states for access to Highly
23 Confidential information. ICNU's expert Mr. Falkenberg has worked with these procedures in
24 Oregon and other states for many years.

25 6. When evaluating whether additional protection is appropriate, the Commission
26 balances the potential harm that could result from disclosure against the benefit that may

1 result from the information being disclosed. *Re PacifiCorp's Proposal to Restructure and*
2 *Reprice Its Services in Accordance with SB 1149*, Docket UE 116, Order No. 01-219 at 2
3 (Mar. 9, 2001). The Affidavit of John Fritz explains the potential harm to the Company and its
4 customers that could result from disclosure of the detailed inputs to price curves for secondary
5 markets, which is significant. If counterparties obtained this information, then PacifiCorp will
6 be placed at a significant disadvantage when attempting to transact with that counterparty
7 because that counterparty would know exactly how PacifiCorp values the illiquid product it is
8 trying to buy or sell. Affidavit of John Fritz at ¶ 5-6. The disadvantage to PacifiCorp means
9 that it could pay more for purchased power and sell power at a reduced rate, all to the
10 detriment of its customers. *Id.*

11 7. The benefits of providing physical possession of information related to forward
12 prices in secondary markets do not outweigh the risk of disclosure and associated harm. The
13 secondary market information and long-term primary market information is a step removed
14 from the OFPC data which ICNU seeks. Additionally, as discussed in the Motion, the OFPC
15 data itself is outside the narrow scope of proceedings around the Final TAM Update,
16 especially given the parties' comprehensive Stipulation.

17 8. ICNU alleges that the Company failed to fully respond to its Fourteenth Set of
18 Data Requests, which ICNU characterizes as an alternative method to obtain the requested
19 information. ICNU Reply at 5. This is untrue. The information requested by ICNU, such as
20 alternative forward price curves, is information that does not exist. Affidavit of John Fritz at
21 ¶ 8. The Commission's discovery guidelines make clear that the Company is not required to
22 perform new modeling or studies in response to data requests. *See* Discovery Guidelines,
23 Oregon Public Utility Commission (July 23, 2007) ("A party will not be required to develop
24 information or prepare a study for another party"). The Company responded to the Fourteenth
25 Set as fully as possible, providing all information available.

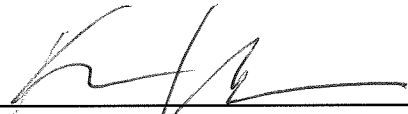
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1 **CONCLUSION**

2 The Company requests that the Commission issue a Modified Protective Order
3 providing special protection to a very narrow set of information related to forward prices in
4 secondary markets and long-term forward prices in primary markets. The Company also
5 requests that the Commission clarify that nothing in its order changes parties' access in
6 discovery to the OFPC and associated broker quotes. Granting PacifiCorp's Motion will
7 provide protection to PacifiCorp and its customers and will not hinder the ability of parties to
8 participate in this docket or review the Company's net power cost updates.

9 DATED: October 18, 2010.

McDOWELL RACKNER & GIBSON PC

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11 
12 Katherine McDowell

13 Attorneys for PacifiCorp

14 PACIFICORP

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17 Pacific Power
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EXHIBIT 1

The General Protective Order, Order No. 10-069, should be amended to include the following language:

1. The following specific information is Highly Confidential Information and subject to the protections identified below:
 - a. Documents related to forward prices in secondary markets and forward prices in the primary markets beyond the year-ahead time period used in the Oregon Transition Adjustment Mechanism (TAM).
 - b. Work papers and spreadsheets used by the Company to develop and compute forward prices in secondary markets and forward prices in the primary markets beyond the year-ahead time period used in the Oregon TAM.
2. All the protections afforded Confidential Information apply to Highly Confidential Information. In addition, the inspection and review of the specific Highly Confidential Information noted in Section 1 shall occur at only PacifiCorp's Portland office or a remote location mutually agreeable to PacifiCorp and the requesting party. PacifiCorp may have a monitor present during review of Highly Confidential Information. Persons reviewing documents containing Highly Confidential Information shall not make copies of any documents and may make limited notes regarding the documents for reference purposes only. Such notes shall be deemed Highly Confidential Information and shall not be a verbatim or substantive transcript of the documents.

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **UE 216**

4 In the Matter of:

AFFIDAVIT OF JOHN FRITZ

5 PACIFICORP, dba PACIFIC POWER
6 2011 Transition Adjustment Mechanism
7 Schedule 201, Cost-Based Supply
 Service

8 STATE OF OREGON)
9 County of Multnomah) ss

10 I, John Fritz, being first duly sworn on oath, depose and say:

11 1. My full name is John Fritz. I am employed by PacifiCorp (or the Company). My
12 present position is Director, Risk Management. In that capacity, I oversee the development and
13 use of the Company's Official Forward Price Curve (OFPC).

14 2. The purpose of this affidavit is to support the Company's request for heightened
15 protection of certain documents and analysis related to the determination of forward prices in
16 secondary markets and forward prices in periods beyond one year in the primary markets. The
17 Industrial Customers of Northwest Utilities (ICNU) may seek production of these documents,
18 because of related discovery in their Thirteenth Set of Data Requests.

19 3. PacifiCorp's OFPC used in the Oregon Transition Adjustment Mechanism (TAM)
20 is based upon year-ahead market prices in PacifiCorp's primary markets. Forward prices in
21 PacifiCorp's secondary markets and forward prices in the primary markets beyond the year-
22 ahead period are not included in the calculation of the OFPC used in the TAM.¹ As a
23 compromise, PacifiCorp is now willing to designate as Confidential information related to the
24

25 ¹ While two secondary markets, Mona and Four Corners, are modeled in GRID, they are not used
26 to calculate the OFPC.

1 OFPC. PacifiCorp has developed a new version of its OFPC spreadsheet to separate
2 information relevant to the OFPC from other price curve information related to secondary
3 markets and primary markets beyond the year-ahead time period used in the TAM. While
4 PacifiCorp does not believe that information related to secondary markets or long-term prices
5 in primary markets is relevant or responsive to ICNU's pending discovery, to the extent that
6 ICNU or another party seeks this data, PacifiCorp would designate this information as Highly
7 Confidential.

8 4. In its Reply, the Company has thus narrowed its request for designation of
9 materials Highly Confidential and therefore subject to additional protections against disclosure
10 to the following:

- 11 a. Documents related to forward prices in secondary markets and forward prices in
12 the primary markets beyond the year-ahead time period used in the Oregon TAM.
- 13 b. Work papers and spreadsheets used by the Company to develop and compute
14 forward prices in secondary markets and forward prices in the primary markets
15 beyond the year-ahead time period used in the Oregon TAM.

16 Specifically, these documents include the spreadsheets used by the front office to prepare
17 PacifiCorp's electricity and natural gas forward price curves on a daily basis for all valuation
18 points for the first seven years of the Company's long-dated forward price curve. As illustrated,
19 the Highly Confidential documents are limited in number and scope.

20 5. These documents are highly sensitive because secondary price curves are
21 infrequently traded in over-the-counter markets and rarely on electronic exchanges and
22 therefore market data is not as transparent to market participants. These secondary price
23 curves are therefore considered highly confidential. PacifiCorp's valuation of these secondary
24 illiquid delivery points (i.e., the price that PacifiCorp would be willing to purchase or sell these
25 illiquid products) is based on a proprietary view. Longer-term price curve data in the primary
26 markets is similarly sensitive.

1 6. If these documents were publicly disclosed, the harm to PacifiCorp and its
2 customers would be substantial. PacifiCorp has substantial commodity positions at secondary
3 illiquid delivery points. PacifiCorp's secondary forward price curves are the Company's
4 assessment of the fair market value of these commodities. To the extent a counterparty obtains
5 PacifiCorp's assessment of the value of these commodities, the counterparty would have an
6 unfair advantage against PacifiCorp, particularly at illiquid delivery points where there may be
7 only one or a few counterparties willing to transact. For example, suppose a counterparty is
8 willing to sell electricity to PacifiCorp at an illiquid delivery point at a \$5.00/MWh premium to the
9 nearest liquid trading hub. Suppose PacifiCorp, through its own assessment of this secondary
10 delivery point, believes the value to be a \$6.00/MWh premium to the nearest liquid trading hub.
11 If the counterparty knows the price PacifiCorp is willing to purchase this secondary delivery
12 point, it would likely offer to sell not at a \$5.00/MWh premium but at or above a \$6.00/MWh
13 premium. As these wholesale transactions are a component of net power costs, customers
14 would be harmed substantially by paying a higher price for purchases or receiving a lower price
15 for sales.

16 7. To the best of my knowledge, because of the extremely sensitive nature of the
17 information, the Company has never provided detailed, trader-developed inputs to its OFPC or
18 to its price curves for secondary markets to any party in any jurisdiction except on a Highly
19 Confidential basis.

20 8. ICNU's 14th Set of Data Requests asked the Company to provide alternate
21 forward price curves. The Company responded fully to this request, indicating that the
22 Company does not have the information ICNU requested.

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1 I declare under penalty of perjury under the laws of the state of Oregon that the
2 foregoing is true and correct based on my information and belief.

3 SIGNED this 18th day of October, 2010, at Portland, Oregon.

4 Signed: John Fritz

5 SUBSCRIBED AND SWORN to before me this 18th day of October, 2010.

6
7 [Signature]
8 Notary Public, State of Oregon
9 My Commission Expires 3/5/2011

