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October 19, 2009

Public Utility Commission of Oregon
Administrative Hearing Division

VIA ELECTRONIC FILING AND U.S. MAIL

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

Re: Docket No. UM 1355

Enclosed for filing in the above-referenced docket are an original and one copy of Idaho Power's request for Approval of Stipulation or Additional Proceedings.

A copy of this filing has been served on all parties to this proceeding as indicated on the attached certificate of service.

Very truly yours,


Wendy L. McIndoo

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

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OCT 21 2009

UM 1355

Public Utility Commission of Oregon
Administrative Hearing Division

In the Matter of

THE PUBLIC UTILITY COMMISSION
OF OREGON,

Investigation into Forecasting Forced Outage
Rates for Electric Generating Units.

**IDAHO POWER'S REQUEST FOR
APPROVAL OF STIPULATION OR
ADDITIONAL PROCEEDINGS**

Pursuant to Administrative Law Judge Allan J. Arlow's Notice of Intent to Modify Stipulations and Establish Rate Calculation ("Notice") issued on October 7, 2009, Idaho Power Company ("Idaho Power" or "Company") notifies the Public Utility Commission of Oregon ("Commission") that it objects to the Commission's proposed modifications to its originally-filed stipulation. Accordingly, Idaho Power respectfully requests that the Commission reconsider its decision and to approve the stipulation as filed.¹ In the event the Commission denies the Company's request for reconsideration, Idaho Power hereby exercises its rights under OAR 860-014-0085(6) and the terms of its stipulation and seeks additional proceedings to allow the parties to better develop the record with respect to the Commission's proposal for addressing extreme outages.

I. BACKGROUND

On November 2, 2007, pursuant to its decision in Order No. 07-015, the Commission opened this docket to evaluate the accuracy of the utilities' methods for forecasting forced outages.² On September 1, 2009, after the submission of several rounds testimony, a Commission workshop, and several settlement conferences, Idaho Power, Commission

¹ Given that the ALJ's Memorandum cannot be considered a final order of the Commission, Idaho Power considers its request for reconsideration to be informal in nature and not governed by the requirements of ORS 756.561 and OAR 860-014-0095.

² See *Re. Portland General Electric Co. Request for General Rate Revision*, Docket UE 180, Order No. 07-015 at 15, 55 (Jan. 12, 2007).

1 Staff, and the Citizens' Utility Board ("CUB") filed a Stipulation containing their
2 agreement on all issues in the docket (hereinafter, "Stipulation").³ In the Stipulation the
3 parties recommended that the Commission adopt Staff's proposed "collar" mechanism,
4 designed to identify and replace data associated with extreme outages to yield a more
5 accurate forecast outage rate.⁴ As described in the Testimony of Kelcey Brown, the collar
6 compares each unit's annual forced outage rate with industry averages collected and
7 published by the North American Electric Reliability Corporation ("NERC"). If a unit's
8 forced outage rate falls outside the 90th or 10th percentile of industry averages, the actual
9 outage rate is replaced by the 90th or 10th percentile value. This replacement value is then
10 incorporated into the four-year historical—or, in Idaho Power's case, three-year⁵—average
11 used to forecast the outage rate.

12 On October 7, 2009, ALJ Arlow issued the Notice reflecting the Commission's
13 conclusion that the Stipulation was reasonable and in the public interest *except* for certain
14 aspects of Staff's collar mechanism. Accordingly, the ALJ stated, the Commission had
15 decided to adopt the Stipulation with the following modifications.

16 First, instead of replacing the excluded outage rate with the 90th or 10th percentile of
17 NERC data, the Commission proposes replacing the excluded outage rate with an average
18 forced outage rate based on the unit's *entire historical data*. Second, the Commission
19 proposes to treat imprudent outages in the same manner as extreme outages in that data
20 associated with an imprudent outage would be replaced with a forced outage rate based on
21 the unit's entire historical average. The Commission's proposal also removes from the
22 calculation of the historical average all years that include an imprudent outage.

23 ³ Although the Industrial Customers of Northwest Utilities ("ICNU") did not sign-on to the Stipulation, they
indicated that they did not object to its terms.

24 ⁴ Idaho Power Stipulation at ¶ 5.c.

25 ⁵ Generally, the Commission has used a four-year rolling average to forecast test period forced outage
rates. See Order No. 07-015 at 15. However, because Idaho Power uses a three-year average to
26 forecast its forced outage rates in Idaho, the Commission has authorized it to use this same three-year
average for Oregon. The terms of the Stipulation reflect that Idaho Power uses the three-year average.

1 **II. DISCUSSION**

2 **A. The Commission Should Reconsider Its Decision and Adopt the Stipulation.**

3 Idaho Power's originally-filed Stipulation reflects a methodology that produces
4 accurate forced outage forecasting and ultimately results in just and reasonable rates for its
5 customers. The Idaho Power Stipulation was negotiated only after the parties had spent
6 months developing and analyzing the issues through testimony, workshops and settlement
7 conferences. The parties' agreement to adopt Staff's collar mechanism in particular was
8 the result of careful analysis of that proposal and reflects the clear and comprehensive
9 understanding of the parties with respect to how the collar mechanism will work and how it
10 will impact forecast outage rates.

11 The Commission's proposed collar mechanism on the other hand constitutes a new
12 proposal the impact of which the parties have been allowed a mere ten days to consider.
13 As a result, Idaho Power has been unable to fully analyze impact of the Commission's
14 modifications on its outage rate calculations. Idaho Power cannot accept its terms without
15 further investigation and clarification.

16 Moreover, there is insufficient evidence in the record to support the Commission's
17 modifications to the Stipulation.

18 *First*, there is insufficient evidence in the record to support the Commission's proposal
19 that a unit's excluded forced outage rate be replaced with a rate based on the unit's entire
20 history. This modification merges Staff's recommended collar mechanism with the proposal
21 by the Industrial Customers of Northwest Utilities ("ICNU") to replace excluded outages
22 with the 20 year historical average for each unit—with the new "twist" of using the unit's
23 entire historical operating data as instead of the most recent 20 years. Because no party
24 recommended or filed testimony regarding the Commission's hybrid proposal, it is entirely
25 new with no evidence to suggest that it is appropriate.

1 Moreover, there is no evidence in the record to suggest that ICNU's collar proposal—
2 which is a component of the Commission's proposal— is appropriate for Idaho Power.
3 ICNU designed its collar proposal specifically for PacifiCorp,⁶ and provided no support for
4 the proposition that it would be appropriate to apply it to Idaho Power's generating facilities.
5 There is no evidence to suggest that PacifiCorp's generation fleet is similar to Idaho
6 Power's fleet, and there is therefore no basis on which to apply the method proposed for
7 PacifiCorp to Idaho Power. Finally, the record on ICNU's proposal is incomplete. ICNU
8 proposed the replacement of excluded outages with the historical average in its final reply
9 testimony and thus no party was able to file responsive testimony.⁷

10 *Second*, there is no evidence to support the Commission's proposal regarding the
11 treatment of outage rates found to be the result of utility imprudence. In fact, prior to the
12 Commission's proposal, no party addressed the subject of treating imprudent outages
13 differently for the purposes of calculating forced outage rates. The Commission should not
14 consider adopting such a policy without party input.

15 The Company as well as CUB and Staff adopted the Stipulation after extensive
16 process in this docket and the Stipulation is fully supported by the record. In contrast,
17 there is no evidence in the record to suggest that the Commission's modifications are
18 appropriate for Idaho Power. For these reasons the Company requests that the
19 Commission reconsider its decision and adopt the Stipulation as filed.

20 **B. If the Commission Rejects Idaho Power's Stipulation, It Should Allow Additional**
21 **Testimony.**

22 If the Commission rejects Idaho Power's request for reconsideration, the Company
23 intends to exercise its rights under OAR 860-014-0085(6) and the terms of Stipulation and
24

25 ⁶ See ICNU/300, Falkenberg/13, ll. 24 ("I recommend the Commission adopt my proposal for
PacifiCorp.").

26 ⁷ See ICNU/300.

1 request that the Commission reopen the record to allow the parties an opportunity to
2 submit testimony regarding the issues raised in the Notice.

3 As discussed above, while the Commission's proposed collar mechanism draws on
4 the proposals of Staff and ICNU, it is not adequately developed. ICNU's proposal to use a
5 unit's 20 year historical average to replace excluded outages is itself without adequate
6 support because ICNU proposed it for PacifiCorp in its final reply testimony, depriving the
7 other parties from any opportunity to respond. This particular term is of particular concern
8 because Idaho Power cannot necessarily verify its older operating data. And the
9 Commission's revision of the ICNU's proposal to include the unit's entire history is entirely
10 new. This issue needs better development so the parties can determine its affect on
11 outage rate forecasts and identify implementation issues that may arise when using
12 potentially unverifiable historical data.

13 It is also unclear how the calculation of the Commission's proposed collar will be
14 made. For instance, the Commission proposes to exclude years with imprudent outages
15 from the historical average but does not propose to exclude years with extreme outages. If
16 a particular year includes an extreme outage, the Commission will replace that year's data
17 with the historical average. In a subsequent year that includes an extreme outage, the
18 question then becomes whether the historical average will include the actual outage data
19 for the previous year, or the historical average substituted for the actual data. If the
20 Commission uses the replacement values—the historical average—to calculate the
21 historical average then the overall result is a skewing of the outage data to the current
22 historical average rather than the four-year (or three-year, in Idaho Power's case) rolling
23 average endorsed by the Commission. Moreover, the record contains no discussion of the
24 apparent inconsistency between the Commission's use of a four-year rolling average to
25 forecast future outages versus the use of a historical average of all unit data for calculating
26 a replacement value for excluded outages. The record with respect to these concerns is

1 virtually nonexistent because no party was able to file testimony in response to ICNU's
2 proposal to use historical averages as replacements for excluded outages.

3 The Commission's proposal also covers issues that are entirely outside the scope of
4 this docket. On January 30, 2009, ALJ Arlow adopted an Issues List that defined the
5 scope of this proceeding and governed the subsequent testimony filed by the parties.⁸
6 Several elements of the Commission's proposed collar exceed the scope of the issues.
7 For instance, the proposed collar includes a provision governing the exclusion and
8 replacement of imprudent outages. It also excludes years that include an imprudent
9 outage from the calculation of the historical outage rate used to replace extreme events
10 and any year that includes an imprudent outage. The Issues List, however, includes
11 nothing about imprudent outages. Likewise, the parties' testimony filed in this case
12 includes no substantive discussion or proposals for excluding imprudent outages or
13 replacing those outages with a historical average. Because the record is lacking with
14 respect to this issue, the Commission should allow the parties to submit additional
15 testimony to bolster the record in support of an eventual Commission order. Additional
16 proceedings will also allow the parties to better investigation the impact of this proposal
17 and clarify its implementation.

18 The Commission's proposed collar also would result in unreasonable treatment of
19 extreme outages exceeding the NERC cut-offs in a way that the agreed upon collar did not.
20 Under the terms of Staff's collar, any outage in excess of the 90th percentile of comparable
21 NERC data was excluded and replaced with the 90th percentile value. Under the
22 Commission's collar, however, the excluded outage is replaced with the historical average
23 derived from the unit's entire operating history. That means that an outage equal to the
24 89th percentile—not an outlier—is included in the forecast outage rate at its actual value,

25 _____
26 ⁸ See *Re. Public Util. Comm'n of Oregon Investigation into Forecasting Forced Outage Rates for Elec. Generating Units*, Docket UM 1355, Ruling (Jan. 30, 2009).

1 while an outage equal to the 91st percentile is replaced with the average value which is
2 significantly lower than the 91st percentile. This results in two outage rates that in
3 numerical terms may be nearly identical receiving significantly disparate treatment under
4 the Commission's proposed collar. Again, because the record with respect to this issue is
5 minimal, additional testimony will allow the parties to analyze the impact and describe in
6 more detail the consequences of adopting the Commission's proposal.

7 **III. CONCLUSION**

8 Idaho Power rejects the Commission's proposed modifications and asks the
9 Commission to approve its original Stipulation in its entirety. If the Commission chooses to
10 reject the Stipulation, Idaho Power requests that the Commission establish additional
11 procedures to allow for the submission of testimony by the parties related to the
12 Commission's proposed collar.

13

14 Dated: October 19, 2009

15 Respectfully submitted,

16 **MCDOWELL & RACKNER PC**

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document in
3 Docket UM 1355 on the following named person(s) on the date indicated below by email
4 and first-class mail addressed to said person(s) at his or her last-known address(es)
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24 DATED: October 19, 2009

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