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August 19, 2010

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 PacifiCorp's Response in Support of Portland General Electric Company's Motion to Strike.

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,

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

Katherine McDowell

cc: Service List

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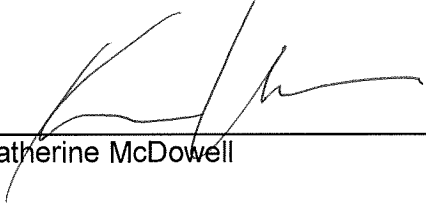
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1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 **UM 1355**

4 In the Matter of
5 THE PUBLIC UTILITY COMMISSION
6 OF OREGON,
7 Investigation into Forecasting Forced Outage
8 Rates for Electric Generating Units.

**PACIFICORP'S RESPONSE IN
SUPPORT OF PORTLAND GENERAL
ELECTRIC COMPANY'S MOTION TO
STRIKE**

9 Pursuant to OAR 860-013-0050(3)(d), PacifiCorp files this response to Portland
10 General Electric Company's (PGE) Motion to Strike Portions of Staff Exhibit 400 (Motion).
11 PacifiCorp joins in and supports PGE's Motion for all of the reasons stated in the Motion.
12 PacifiCorp also asserts a separate basis for striking Staff's testimony proposing a new
13 collar mechanism. The Public Utility Commission (Commission) denied PacifiCorp's
14 request to participate in this evidentiary phase of the docket on the basis that this phase
15 was limited to issues PacifiCorp had already had an opportunity to address in supplemental
16 filings. See Order No. 10-157 at 4 (Apr. 26, 2010). Staff has now presented a new collar
17 mechanism that PacifiCorp had no opportunity to address in its supplemental filings.

18 Principles of administrative law, Commission policy, and basic fairness preclude
19 Commission consideration of Staff's new collar mechanism and its application to PacifiCorp
20 under these circumstances. The Oregon Administrative Procedures Act requires the full
21 development of the record prior to decision. See, e.g., ORS 183.482(8)(c) (Commission
22 orders must be supported by substantial evidence in the record). Moreover, it is
23 Commission policy to allow parties the opportunity to respond to evidence presented by
24 other parties. See *Re Internal Operating Guidelines for the Public Utility Commission of*
25 *Oregon*, Docket UM 1016, Order No. 01-253 at 7 (Mar. 26, 2001) ("All parties are given an
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1 opportunity to present their evidence and all other parties are given an opportunity to
2 respond to that evidence.”).

3 The Commission should not adopt the change in ratemaking methodology
4 proposed in Staff’s new collar mechanism without developing a full record on the potential
5 impact of the change and allowing all parties an opportunity to respond to the evidence
6 presented. The record currently lacks a complete discussion of how Staff’s new collar
7 mechanism would operate and what its impact would be on the calculation of forced outage
8 rates. To develop such evidence, PacifiCorp would need discovery from Staff regarding
9 the details on how the new collar mechanism operates, an opportunity to model and
10 analyze the proposal, the ability to draft and submit responsive testimony, and an
11 opportunity to cross-examine Staff.

12 In order to properly consider Staff’s new proposal, the Commission would need to
13 revise the schedule to allow for the filing of responsive testimony by all parties, including
14 PacifiCorp. The current schedule allows the Commission to issue a decision in time for the
15 utilities to reflect it in their 2011 net power costs (*i.e.*, by mid-October 2010, which is the
16 latest possible date PacifiCorp can receive the Commission order and still reflect it in the
17 2011 TAM). Consideration of Staff’s new proposal would delay the timing of the
18 Commission’s final order and preclude implementation of the results of this docket in 2011
19 net power costs.

20 For the reasons set forth in PGE’s Motion and the reasons set forth above, PacifiCorp
21 respectfully requests that the Commission strike Staff’s testimony and decline to consider
22 Staff’s new collar mechanism. If the Commission denies the motion to strike, PacifiCorp
23 requests that the Commission decline to apply the mechanism to PacifiCorp unless PacifiCorp

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1 is provided an adequate opportunity to conduct discovery on the mechanism and file
2 responsive testimony.

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4 Dated: August 19, 2010

Respectfully submitted,

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McDowell Rackner & Gibson PC

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Katherine McDowell
Amie Jamieson

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Attorneys for PacifiCorp

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