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October 5, 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 Motion for Modified Protective Order

Attention Filing Center:

Enclosed for filing in the captioned docket are the original and one copy of PacifiCorp's 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

1 **CERTIFICATE OF SERVICE**

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

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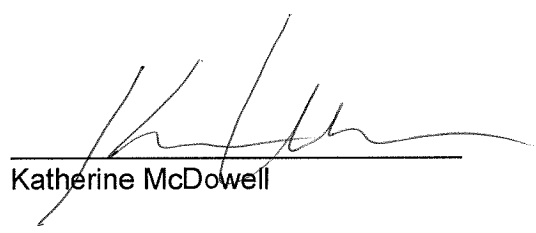
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23 DATED: October 5, 2010

24 
Katherine McDowell

UE 216

**MOTION FOR
MODIFIED PROTECTIVE ORDER**

Pursuant to OAR 860-013-0031 and Paragraph 16 of the General Protective Order issued in this docket, Order No. 10-069, PacifiCorp d/b/a Pacific Power (the Company) submits this Motion for Modified Protective Order (Motion) to the Public Utility Commission of Oregon (Commission). The Company requests that the Commission modify its standard protective order to provide additional protective measures for Highly Confidential information related to the Company's Official Forward Price Curve requested by the Industrial Customers of Northwest Utilities (ICNU) in data requests.

PacifiCorp requests that the modified protective order provide that such information be designated as Highly Confidential and subject to review only at the Company's offices, or a

1 mutually agreeable remote location for consultants or employees of a party who do not reside
2 in Portland. The Company's proposed protections are reasonable in light of the harm that
3 would result from disclosure and the limited value of the information in this proceeding.

4 Attached as Exhibit 1 to this Motion is the language PacifiCorp proposes to add to the
5 Protective Order to address Highly Confidential information relating to the inputs and
6 workpapers for PacifiCorp's forward price curve.

7 **I. BACKGROUND**

8 **A. Stipulation**

9 On July 7, 2010, the parties filed a Stipulation that resolved all issues in this docket.
10 On September 16, 2010, the Commission approved the Stipulation in Order No. 10-363.
11 Paragraph 7 of that Stipulation provides that the Company will update its initial filing as
12 specified in the Transition Adjustment Mechanism (TAM) Guidelines, which require the
13 Company to file updates on July 7, November 8, and November 15, 2010. Concurrent with
14 the Stipulation, the Company also filed its July 7th update.

15 Although the Stipulation resolved all issues in this docket, Paragraph 7 of the
16 Stipulation allowed parties to challenge elements the Company's updates. The testimony
17 supporting the Stipulation explains that this provision "retains Staff's and intervenor's ability to
18 challenge the Updates for new [net power cost] elements (e.g., new or updated contracts),
19 including those in the July 7, 2010 update." Joint/100 at 4, ll. 6-8.

20 Paragraph 8 of the Stipulation outlined the methodological and modeling changes that
21 the Company agreed to implement in the 2012 TAM proceeding. Notably, these changes do
22 not include any changes to the method used to determine the Company's Official Forward
23 Price Curve.

24 **B. Information Requested by ICNU**

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1 On July 26, 2010, ICNU served its Thirteenth Set of Data Requests on the Company.
2 ICNU Data Request (DR) 13.1 sought a description of the Company's method for creating its
3 forward price curve along with supporting documentation. Specifically, ICNU DR 13.1 asked
4 for:

- 5 • A description of the process used to create the Official Forward Price Curve
6 updated in the Company's July filing.
- 7 • A list of the documents or types of documents reviewed by the Company in
8 preparing the Official Forward Price Curve updated in the Company's July filing.
- 9 • Workpapers and spreadsheets used by the Company to compute the Official
10 Forward Price Curve updated in the Company's July filing (monthly HLH, LLH
11 prices).
- 12 • A discussion of the role the judgment of the traders plays in the process of
13 developing the Official Forward Price Curve updated in the Company's July filing.
- 14 • A description of the review process the Official Forward Price Curve undergoes
15 before being approved.

16 On August 2, 2010, the Company responded to ICNU DR 13.1 and provided a
17 description of its methodology for calculating the forward price curve but indicated that the
18 supporting workpapers were "of utmost commercial sensitivity and highly confidential." See
19 Exhibit 2. PacifiCorp has never previously provided copies of the highly sensitive information
20 underlying the Official Forward Price to any party in discovery. In lieu of providing the
21 documents to ICNU directly, the Company proposed that ICNU review the requested materials
22 at either PacifiCorp's Portland office or at a remote site more easily accessible to ICNU's
23 Atlanta consultant.

24 On August 11, 2010, ICNU sent a letter indicating that PacifiCorp's proposal was
25 unacceptable because the protective order in this docket did not call for such treatment and
26

1 ICNU's consultant would be unable to legitimately review the materials if they were not sent to
2 his office. See Exhibit 3. ICNU also asked the Company to produce the requested materials
3 with all highly confidential information redacted.

4 The Company responded on August 20, 2010, and outlined the nature of the sensitive
5 information sought. See Exhibit 4. That letter explained that ICNU sought data and analysis
6 underlying PacifiCorp's quarterly official forward price curves. It explained that for the first six
7 years (the "market period"), these curves are created with proprietary market inputs such as
8 PacifiCorp traders' views of relative value of each month to a quarterly product (monthly
9 shaping factors), relative value of one year to the next (calendar year rolls), and relative
10 values of illiquid delivery points to a liquid delivery points (basis factors). The letter also
11 explained that these values are proprietary market data used to fill in the gaps of price data
12 not available from brokers, and if published, would provide information about PacifiCorp's
13 proprietary view of such markets. Furthermore, the spreadsheets used to create these
14 forward price curves contain information beyond what is published as official forward price
15 curves, including but not limited to time periods beyond the year-ahead forward price curve
16 used in the TAM (*i.e.* in this case the 2011 forward price curve) and PacifiCorp's internal
17 valuation of illiquid trading points.

18 The August 20th letter also indicated that because virtually all of the responsive
19 information sought by ICNU was Highly Confidential, redaction was not practicable. The
20 Company also indicated in its letter that ICNU had agreed to onsite review of Highly
21 Confidential information in the past, including in this docket, and therefore it was feasible for
22 ICNU's consultant to agree to this process here.

23 On August 20, 2010, the Company also provided ICNU a supplemental response to
24 ICNU DR 13.1 in which PacifiCorp provided a Confidential table of broker quotes compared to
25 the forward price curve for the July update. See Exhibit 5. This information is the same
26

1 information provided for the final update pursuant to the TAM Guidelines. See Order No. 09-
2 274, App. A at 19 ("The Company will provide broker quotes compared to the Company's
3 forward price curve used in the final net power cost update as soon as practical.").

4 In response to the Company's August 20th letter, ICNU arranged for its consultant to
5 review the requested Highly Confidential information in Salem on August 23, 2010, when the
6 consultant would be in Salem on another matter. Because ICNU's consultant did not travel to
7 Oregon, this review never occurred. ICNU's consultant ultimately reviewed the information at
8 PacifiCorp's counsel's office in Atlanta on August 26, 2010.

9 Thereafter, on September 10, 2010, ICNU served its Fourteenth Set of Data Requests,
10 related to the Forward Price Curve.

- 11 • ICNU Data Request 14.1: Copies of the "broker quotes" used to benchmark the
12 Official Forward Price Curve's used so far in this case.
- 13 • ICNU Data Request 14.2: An alternative forward price curve and GRID net
14 power cost study based on the "broker quotes" applicable at the time of the most
15 recent Official Forward Price Curve update filed by the Company in this case.
- 16 • ICNU Data Request 14.3: For the last eight Official Forward Price Curves, a
17 comparison of applicable broker quotes and the actual market prices applicable
18 for the same period and an analysis of whether the Official Forward Price Curve
19 used by the Company is more or less accurate for predicting actual forward
20 prices than the broker quotes would have been.
- 21 • ICNU Data Request 14.4 and 14.5: A discussion of how incentive compensation
22 is structured for the traders who produce the forward price curves for the
23 Company, along with details regarding the number of traders and process used
24 to develop the Official Forward Price Curve.

- ICNU Data Request 14.6: An explanation of the basis for the 5 percent assumption referenced in the Company's response to ICNU DR 13.1. The 5 percent referenced by ICNU is the Company's method of comparing its Official Forward Price Curve to ensure that it is within a pre-established range of available broker quotes, which is currently set at plus or minus 5 percent.

On September 20, 2010, the Company responded to ICNU's Fourteenth Set of Data Requests, objecting on the grounds that the Stipulation signed by ICNU and adopted by the Commission precluded ICNU from now raising issues related to the Company's modeling of its forward price curve. Notwithstanding this objection, PacifiCorp responded to each of the requests. See Exhibit 6.

ICNU then sent a letter to PacifiCorp on September 28, 2010, again seeking the Highly Confidential information and refusing to agree to onsite review. See Exhibit 7. ICNU's letter indicated that it intended to use the information to recalculate the forward price curve using different methodologies (e.g., using broker quotes and different underlying assumptions) and to analyze the reasonableness of the Company's updates based upon the Company's underlying forward price curve modeling, including the Company's performance goals for traders.

B. Treatment of Information Proposed by PacifiCorp

In the Company's prior rate cases and TAM dockets, the Company has addressed review of Highly Confidential information on a case-by-case basis. This approach means that parties do not need to litigate a protective order before they know what Highly Confidential material will be at issue and allows flexibility to determine what additional protective measures are appropriate. Generally, the Company has produced Highly Confidential material for review at its Portland offices or via remote access for Staff and consultants who are not in Portland. Once a party has reviewed the Highly Confidential information, if a party determines

1 that it requires additional access to particular documents, the Company has negotiated
2 conditions for such access. This approach appears to have worked well, based on the lack of
3 discovery conflicts over Highly Confidential information the parties have submitted to the
4 Commission for consideration in the Company's rate cases and TAM proceedings.

5 Prior to the Company's responses to the data requests referenced above, the
6 Company and ICNU discussed special handling arrangements of other Highly Confidential
7 material in this docket. Consistent with the Company's proposed treatment of Highly
8 Confidential information in previous rate cases and TAM proceedings, the Company offered to
9 make the Highly Confidential information available to ICNU at the Company's offices in
10 Portland and to provide remote access to ICNU's consultant at a law firm in Atlanta.

11 The Company has never proposed withholding the information sought by ICNU. It
12 has, consistent with past practice in this and other dockets, proposed allowing ICNU full
13 access to the Highly Confidential materials at both its Portland office and at remote locations
14 more accessible to ICNU's consultant.

15 II. ARGUMENT

16 The Standard Protective Order in this proceeding allows a party desiring additional
17 protection to "move for any of the remedies set forth in ORCP 36(C)." Order No. 10-069 at ¶
18 16. ORCP 36(C)(2) provides that a party may show good cause that "discovery may be had
19 only on specified terms and conditions, including a designation of the time or place." This
20 motion sets forth good cause and the information required by Paragraph 16 of the Standard
21 Protective Order showing that additional protection of the information described above is
22 necessary.

23 In evaluating whether additional protection is appropriate, the Commission balances
24 the potential harm that could result from disclosure against the benefit that may result from the
25 information being disclosed. *Re PacifiCorp's Proposal to Restructure and Reprice Its*
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1 *Services in Accordance with SB 1149, Docket UE 116, Order No. 01-219 at 2 (Mar. 9, 2001).*

2 The Company's proposal for review of the requested information appropriately balances the
3 need for additional protection with the need to provide access to such information.

4 **A. The Requested Material is Highly Confidential and Requires Heightened**
5 **Protection.**

6 ICNU is requesting work papers relating to the development of the Company's Official
7 Forward Price Curve. As discussed above, the information requested by ICNU is extremely
8 sensitive. This information details how PacifiCorp analyzes the power and natural gas
9 markets and represents proprietary data developed by PacifiCorp including the Company's
10 internal valuation of illiquid trading points. Public disclosure of the information would harm the
11 Company's competitive position in the market place, resulting in harm to customers.

12 **B. The Benefit that Could Result from Disclosing the Requested Material Under**
13 **Standard Confidential Procedures is Minimal.**

14 The Commission balances the need for heightened protection against the benefit that
15 could result from disclosing the information. In this case, the benefit that could result from
16 providing the information under standard Confidential procedures, as opposed to Highly
17 Confidential procedures, is minimal or non-existent because the information sought by ICNU
18 is beyond the scope of this very limited phase of the docket.

19 The parties' testimony in support of the Stipulation makes clear that ICNU preserved
20 its right to challenge only those elements of the updates not included in the Company's
21 underlying case, such as new contracts. See Joint/100 at 4, ll. 6-8. The Stipulation was not
22 intended to allow parties (neither the Company nor intervenors) to propose changes in this
23 phase of the case to the underlying methodologies or modeling techniques used by the
24 Company in its original filing.

25 Here, ICNU is seeking general discovery on the Company's forward price curve
26 beyond that necessary to simply audit the application of the forward price curve used in the

1 Company's July Update. Moreover, ICNU is seeking this Highly Confidential information not
2 to challenge the accuracy of the Company's calculations, but to "recalculat[e] the forward price
3 curve based on alternative assumptions," and to calculate an "alternative GRID study based
4 on a forward price curve derived from broker quotes," and to analyze the forward price curve
5 in light of PacifiCorp's performance goals for traders. See Exhibit 7. ICNU's discovery is
6 aimed at challenging the underlying methodology used by the Company to calculate its
7 forward price curve. This methodology, including the incentives provided to its traders, is not
8 a new element used only in the Company's updates. The methodology used to calculate the
9 forward price curve in the updates is identical to the methodology used in the underlying case.
10 ICNU settled this issue in the Stipulation for purposes of this docket and ICNU is now
11 precluded from litigating this issue in response to the Company's Final TAM Update.

12 **C. The Company's Proposed Treatment of the Forward Price Curve Information is**
13 **Reasonable.**

14 Given the need for heightened protection of the information and the lack of any benefit
15 to providing the information under standard Confidential procedures, the Company's proposal
16 to allow review of the Highly Confidential material only at the Company's offices or at a
17 location convenient for ICNU's Atlanta consultant is reasonable.

18 **III. CONCLUSION**

19 The Company has presented good cause to institute heightened protection for
20 information related to the development of its Official Forward Price Curve. The Company's
21 proposed treatment of this information strikes an appropriate balance between protecting
22 Highly Confidential information from disclosure and facilitating ICNU's review of the
23 information. The Company therefore respectfully requests that the Commission issue a
24 Modified Protective Order instituting the proposed protective measures included in Exhibit 1
25 for the information described in this Motion.

1 DATED: October 5, 2010.

McDOWELL RACKNER & GIBSON PC

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4 
Katherine McDowell

5 Attorneys for PacifiCorp

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

Motion for Modified Protective Order

Exhibit 1

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 reviewed by the Company in preparing the Official Forward Price Curve.
- b. Work papers and spreadsheets used by the Company to develop and compute the Official Forward Price Curve.

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.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

Motion for Modified Protective Order

Exhibit 2

ICNU Data Request 13.1

With respect to the Official Forward Price Curve updated in the Company's July filing, please provide the following:

- a. A description of the process used to create the OFPC.
- b. A list of the document(s) or types of documents(s) reviewed by the Company in preparing the OFPC.
- c. Workpapers and spreadsheets used by the Company to compute the OFPC (monthly HLH, LLH prices) used in the update.
- d. A discussion of the role the judgment of the traders plays in the process of developing the OFPC.
- e. A description of the review process the OFPC undergoes before being approved.

Response to ICNU Data Request 13.1

- a. PacifiCorp's Official Forward Price Curve (OFPC) applicable to a rate proceeding is based upon market quotes as of the last trading day of the quarter, which is March 31, 2010 for the July filing. The forward price curve (FPC) spreadsheets are updated on a daily basis with the activities of PacifiCorp traders for power and natural gas points of delivery (POD). The spreadsheets contain market quotes and basis calculations from primary POD's and monthly shaping factors where applicable. On the last trading day of the quarter, the risk management group validates that the FPC provided by the trading desk for the OFPC are within a pre-established range of available broker quotes, currently set at +/- 5%.
- b. Please refer to the Company's response to ICNU Data Request 13.1a. above. The Company utilizes daily trading prices and broker quotes when preparing the official forward price curve. The Company considers these quotes and spreadsheets to be of utmost commercial sensitivity and highly confidential. Please contact Joelle Steward at (503) 813-5542 to discuss arrangements for review onsite.
- c. Please refer to the Company's response to ICNU Data Request 13.1a. above. The FPC spreadsheet for electricity prices has calculations for both HLH and LLH prices.
- d. Please refer to the Company's response to ICNU Data Request 13.1a. above.
- e. Please refer to the Company's response to ICNU Data Request 13.1a. above.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

Motion for Modified Protective Order

Exhibit 3

Davison Van Cleve PC

TEL (503) 241-7242 • FAX (503) 241-8160 • mail@dvclaw.com

Suite 400
333 SW Taylor
Portland, OR 97204

Irion A. Sanger

August 11, 2010

Via Email

Katherine McDowell
McDowell, Rackner & Gibson PC
419 SW 11th Ave, Suite 400
Portland, OR 97205

Re: In the Matter of PACIFICORP 2011 Transition Adjustment Mechanism
Docket No. UE 216

Dear Katherine:

This letter is regarding PacifiCorp's (the "Company") responses to the Industrial Customers of Northwest Utilities' ("ICNU") thirteenth set of data requests. ICNU requested information regarding the Company's July forward price curve, which was used to increase the estimated net power costs in its July update. The July update showed an approximately \$10.8 million increase in net power costs, \$8.3 million of which was related to the forward price curve update. PacifiCorp provided a partial response, but did not provide all documents and workpapers because the Company considers them "highly confidential." Instead, PacifiCorp has asked ICNU to review these documents at the offices of PacifiCorp's attorneys in Atlanta, Georgia. These arrangements will not allow ICNU to fully review and analyze the Company's forward price curve updates, especially the final November updates. ICNU requests that the Company provide the responsive information.

ICNU data request 13.1 requested information regarding the July Official Forward Price Curve ("OFPC"), including a list of documents or types of documents reviewed by the Company in preparing the OFPC and all workpapers and spreadsheets used by the Company to compute the OFPC. ICNU intends to seek similar information for the November OFPC updates, which will be used to set the final transition adjustment mechanism ("TAM") rate increase in this proceeding.

PacifiCorp provided a narrative response, but refused to provide any responsive documents. The Company stated that it "utilizes daily trading practices and broker quotes when preparing the official forward price curve. The Company considers these quotes and spreadsheets to be of utmost commercial sensitivity and highly confidential." The response requested that ICNU contact the Company "to discuss arrangements for review onsite." ICNU's consultant Randall Falkenberg contacted the Company to ascertain why the Company believes the information must be reviewed on site, and the scope and nature of the confidential material. ICNU understands that the OFPC includes market price information for each month of a six year period, and analysis of the market price information, including market quotes and trader

Katherine McDowell
August 11, 2010
Page 2

estimates. In addition, ICNU understands that there is certain information in the spreadsheets which is not used in the OFPC.

PacifiCorp's response violates the terms of the protective order in this proceeding. The protective order requires PacifiCorp, to "the extent practicable," to "designate only those portions of the document that" are confidential. While PacifiCorp can withhold certain confidential information while the parties discuss disputes about the access to confidential material, PacifiCorp is required to provide ICNU with all non-confidential or redacted information at the time the data responses are due. ICNU requests that PacifiCorp at a minimum provide all non-confidential material immediately.

PacifiCorp's response also violates the protective order in this proceeding because it treats the information as "highly confidential" requiring safe room procedures when no such protective order has been approved by the Commission. If PacifiCorp believes such treatment is necessary, then the Company should file a new protective order and carry its burden of proof to demonstrate that such measures are warranted.

ICNU has not been provided any information that demonstrates that the confidential information cannot be provided to its consultant, or must be reviewed at the offices of PacifiCorp's attorneys. The information may be confidential, but there is no reason that ICNU's consultant and attorneys cannot be entrusted with the confidential material. In addition, based on ICNU's understanding of the material and the analysis necessary for review, it will not be feasible for ICNU to conduct its review at PacifiCorp's offices. Any legitimate review of the OFPC would be especially difficult at the time of the November updates that will be used to set the final TAM rates. For the November updates, ICNU has only a limited time to review the OFPC and all other aspects of the final TAM updates. Therefore, ICNU requests that the Company provide complete responses to its thirteenth set of data requests.

ICNU also clarifies its request in that ICNU is not requesting information which is not relevant to its review of the OFPC. If there is additional information not relevant to how the OFPC was calculated, then ICNU is not requesting that information at this time.

If this issue cannot be satisfactorily resolved, ICNU intends to file a motion to compel to obtain all relevant documents related to how the Company calculated the OFPC that is used in the July update, and will be used in the November updates. To aid the Administrative Law Judge's resolution of this issue, ICNU requests that PacifiCorp provide a detailed privilege log identifying each document withheld, the portions of the document that are confidential, a description of the confidential material, and an explanation regarding why the information cannot be provided to ICNU's consultant and attorneys.

Sincerely yours,


Irion A. Sanger

cc: Jason Jones
Catriona McCracken

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

Motion for Modified Protective Order

Exhibit 4

McDowell Rackner & Gibson PC



KATHERINE McDOWELL
Direct (503) 595-3924
katherine@mcd-law.com

August 20, 2010

VIA E-MAIL

Irion Sanger
Davison Van Cleve PC
333 SW Taylor, Suite 400
Portland, OR 97204

Re: Docket No. UE 216

Dear Irion,

We have your letter of August 11, 2010 regarding PacifiCorp's Response to ICNU Data Request 13.1. In that response, the Company addressed ICNU's questions related to the Company's Official Forward Price Curve, but indicated that the specific documents and workpapers requested were Highly Confidential. The Company has offered to make these Highly Confidential documents available to Mr. Falkenberg for review in the Atlanta offices of PacifiCorp's counsel, Troutman Sanders. Additionally, as conveyed to you by Joelle Steward on August 18, 2010, the Company can arrange for Mr. Falkenberg to review these documents at the Company's offices in Portland or in Salem when he is in Oregon for the UM 1355 hearing on August 23, 2010.

Your letter objects to this proposed arrangement on the ground that the Company has not justified the need for Highly Confidential handling of the information. Additionally, you claim that this arrangement will not allow full review and analysis of the forward price curve updates. Your letter also requests that the Company redact Highly Confidential information and produce the remaining information; produce a "privilege log" for the Highly Confidential information; and file to amend the protective order to address these documents.

The Company will not produce the information sought in ICNU 13.1 without the special handling procedures it has proposed. The information is among the most sensitive maintained by the Company. Disclosure of the information could harm the Company and its customers by providing suppliers and competitors detailed information regarding how PacifiCorp analyzes the markets in which it continuously transacts power and natural gas sales and purchases.

More specifically, ICNU seeks data and analysis underlying PacifiCorp's quarterly official forward price curves. For the first six years (the "market period"), these curves are created with proprietary market inputs such as PacifiCorp traders' views of relative value of each month to a quarterly product (monthly shaping factors), relative value of one year to the next (calendar year rolls), and relative values of illiquid delivery points to a liquid delivery points (basis factors). These values are proprietary market data used to fill in the gaps of price data not available from

Irion Sanger
August 20, 2010
Page 2

brokers, and if published would provide information about PacifiCorp's proprietary view of such markets. Furthermore, the spreadsheets used to create these forward price curves contain information beyond what is published as official forward price curves, including but not limited to PacifiCorp's internal valuation of illiquid trading points.

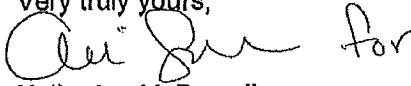
PacifiCorp has reviewed the responsive information to determine if certain portions of it could be produced with Highly Confidential material redacted. This review confirmed that redaction would simply result in the production of impractical spreadsheets because all of the responsive information (except the Official Forward Price Curve itself, which ICNU already has) is Highly Confidential. Additionally, PacifiCorp has not withheld any information on the basis of privilege. Therefore, there is no data with which to populate a privilege log.

It is not clear why ICNU asserts that review of the Highly Confidential material at the offices of PacifiCorp's Atlanta counsel is infeasible. While ICNU's Intervenor funding is designed to cover expenses such as on-site review of Highly Confidential materials, the Company has tried to accommodate ICNU with this proposal, which obviates the need for Mr. Falkenberg to travel to Oregon for this purpose. The Company has followed this same process in other TAM filings without objection. When the TAM was filed this year, PacifiCorp explained to ICNU that it had again made arrangements to produce Highly Confidential information at its Atlanta counsel's office. Mr. Falkenberg responded: "I'll look over the material and see whether there is anything I need to see and get back with you. I appreciate the Company being so helpful on this." Because it was feasible for ICNU to review Highly Confidential information at the Company's Atlanta counsel's office in the past, PacifiCorp does not understand why it is not feasible in this instance.

Nevertheless, the Company wants to be responsive to ICNU's interest in reviewing the forward price curve used in the July TAM update. As a compromise to resolve this issue, the Company will provide a Confidential table of broker quotes compared to the Forward Price Curve for the July update, such as that required by the TAM Guidelines for the final update. The Company will provide this information in a Supplemental Response to ICNU 13.1. This information may ultimately be more useful in a review of the Forward Price Curve than the other data ICNU has requested.

If ICNU continues to object to the production of the Highly Confidential material responsive to ICNU 13.1 at PacifiCorp's offices or at Atlanta counsel's office, PacifiCorp will file a motion to amend the protective order to address this issue. Please let us know as soon as possible if Mr. Falkenberg would like to view the material on Monday, August 23, 2010, so that the Company can make the necessary arrangements.

Very truly yours,


Katherine McDowell

cc: Joelle Steward

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

Motion for Modified Protective Order

Exhibit 5

UE-216/PacifiCorp
August 20, 2010
ICNU 13th Set Data Request 13.1 – 1st Supplemental

ICNU Data Request 13.1

With respect to the Official Forward Price Curve updated in the Company's July filing, please provide the following:

- a. A description of the process used to create the OFPC.
- b. A list of the document(s) or types of documents(s) reviewed by the Company in preparing the OFPC.
- c. Workpapers and spreadsheets used by the Company to compute the OFPC (monthly HLH, LLH prices) used in the update.
- d. A discussion of the role the judgment of the traders plays in the process of developing the OFPC.
- e. A description of the review process the OFPC undergoes before being approved.

1st Supplemental Response to ICNU Data Request 13.1

In follow-up to PacifiCorp's letter to Mr. Sanger on August 20, 2010, please refer to Confidential Attachment ICNU 13.1 1st Supplemental. This information is confidential and is provided subject to the terms and conditions of the protective agreement in this proceeding.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

Motion for Modified Protective Order

Exhibit 6

ICNU Data Request 14.1

Please refer to the response to ICNU 13.1. Please provide a copy of the “broker quotes” used to benchmark the OFPC’s used so far in this case. Please identify the sources of these quotes, when they were obtained, and the time periods and products to which they are applicable.

Response to ICNU Data Request 14.1

The Company objects to this request on the basis that ICNU has agreed to, and the Commission has adopted, a stipulation in which the parties resolved all issues in this proceeding other than issues specific to the Indicative Filing and Final Update. ICNU’s discovery on issues that it could have raised prior to entering into the stipulation, such as general discovery on the Company’s forward price curve rather than discovery specific to the forward price curve used in the Indicative Filing and Final Update, are beyond the scope of the current phase of this docket. Without waiving its objection, the Company responds as follows:

Please refer to the Company’s 1st Supplemental to ICNU Data Request 13.1 dated August 20, 2010 for a copy of the broker quotes.

The broker quotes are provided by Amerex, ICAP, ICE, Tradition, and Tullett. For the 3/31/2010 Forward Price Curve (FPC) to Brokers Comparison, all broker quotes were obtained on 3/31/2010. The quotes are applicable for electricity products traded at the indicated point of delivery (POD) for the month, quarter or year specified by the quote.

ICNU Data Request 14.2

Please refer to the response to ICNU 13.1. Please provide an alternative FPC and GRID NPC study based on the “broker quotes” applicable at the time of the most recent OFPC update filed by the Company in this case. If the Company considers this request burdensome, please provide ICNU the data necessary to perform this analysis. Please provide any GRID inputs that the Company would develop for this “broker quote” based FPC, such as the re-optimized hydro dispatch.

Response to ICNU Data Request 14.2

The Company objects to this request on the basis that ICNU has agreed to, and the Commission has adopted, a stipulation in which the parties resolved all issues in this proceeding other than issues specific to the Indicative Filing and Final Update. ICNU’s discovery on issues that it could have raised prior to entering into the stipulation, such as general discovery on the Company’s forward price curve rather than discovery specific to the forward price curve used in the Indicative Filing and Final Update, are beyond the scope of the current phase of this docket. The Company also objects to the request on the ground that it is vague and overly burdensome. Without waiving its objections, the Company responds as follows:

Please refer to the Company’s 1st Supplemental response to ICNU Data Request 13.1 for broker quotes applicable at the time of the most recent OFPC update filed by the Company in this case. The broker quotes do not have data points for all market hubs in all time periods, and the missing data cannot be created or transferred from one broker quote to another. The Company does not have additional data responsive to this request. Due to the fact that the Company’s OFPC is verified to be within the reasonable range of the broker quotes, there is no alternative FPC to the Company’s OFPC.

ICNU Data Request 14.3

For the last 8 OFPCs, please provide a comparison of applicable broker quotes and the actual market prices applicable for the same period. Please show whether the OFPC used by the Company is more or less accurate for predicting actual forward prices than the broker quotes would have been.

Response to ICNU Data Request 14.3

The Company objects to this request on the basis that ICNU has agreed to, and the Commission has adopted, a stipulation in which the parties resolved all issues in this proceeding other than issues specific to the Indicative Filing and Final Update. ICNU's discovery on issues that it could have raised prior to entering into the stipulation, such as general discovery on the Company's forward price curve rather than discovery specific to the forward price curve used in the Indicative Filing and Final Update, are beyond the scope of the current phase of this docket. Without waiving its objection, the Company responds as follows:

Please refer to Confidential Attachment ICNU 14.3. Confidential information is provided subject to the terms and conditions of the protective order in this proceeding.

The Company has not performed, nor does it believe there is a way to perform, an analysis to show whether the OFPC used by the Company is more or less accurate for predicting actual forward prices than the broker quotes would have been.

ICNU Data Request 14.4

Please provide a discussion of how incentive compensation is structured for the traders who produce the forward price curves for the Company. (a) Please provide a list of the performance goals typical for such traders. (b) Is traders' performance measured based on how closely they predict the actual forward prices? (c) Is traders' performance measured based on making purchases or sales at prices that are "beat" the Company's forward price curves?

Response to ICNU Data Request 14.4

The Company objects to this request on the basis that ICNU has agreed to, and the Commission has adopted, a stipulation in which the parties resolved all issues in this proceeding other than issues specific to the Indicative Filing and Final Update. ICNU's discovery on issues that it could have raised prior to entering into the stipulation, such as general discovery on the Company's forward price curve rather than discovery specific to the forward price curve used in the Indicative Filing and Final Update, are beyond the scope of the current phase of this docket. The Company also objects to this request on the basis of relevance, as trader compensation and performance goals are not relevant to this proceeding. Without waiving its objections, the Company responds as follows:

The incentive compensation program for traders who produce the forward prices curves for the Company is the same program used for all of the front office. There is no goal specifically pertaining to forward price curves. Each trader is provided a performance rating based on an annual performance review.

- a. Each trader's rating is based on 12 performance goals: customer service, employee commitment, financial strength, environmental respect, regulatory integrity, operational excellence, customer focus, job knowledge, planning and decision making, productivity, builds relationships, leadership.
- b. The traders do not predict actual forward prices, so there is no performance measure for this.
- c. No trader's performance is based on transactions that beat the Company's forward price curve.

ICNU Data Request 14.5

[a] How many traders are involved in producing the OFPC? [b] Is the OFPC developed by input from a different trader for each product and market? [c] Do traders provide the OFPC inputs for multiple products and markets? [d] Please explain the process in more detail.

Response to ICNU Data Request 14.5

The Company objects to this request on the basis that ICNU has agreed to, and the Commission has adopted, a stipulation in which the parties resolved all issues in this proceeding other than issues specific to the Indicative Filing and Final Update. ICNU's discovery on issues that it could have raised prior to entering into the stipulation, such as general discovery on the Company's forward price curve rather than discovery specific to the forward price curve used in the Indicative Filing and Final Update, are beyond the scope of the current phase of this docket. Without waiving its objection, the Company responds as follows:

- a. Depending on availability, one to four electricity traders are involved in producing electricity price curves and, again depending on availability, one or two natural gas traders are involved in producing natural gas price curves.
- b. Electricity price curves are developed by electricity traders and natural gas price curves are developed by natural gas traders. Other than this commodity differentiation, there is no definitive or constant segregation of price curve development responsibilities.
- c. Traders provide inputs for price curves; these inputs are derived from trading activity in multiple products and markets.
- d. Traders obtain price curve information from brokers, online trading platforms, and conversations with counterparties and then apply this information, as appropriate, to the development of price curves. These price curves are then validated by the Risk Management department, which is an independent department within the Company.

UE-216/PacifiCorp
September 20, 2010
ICNU 14th Set Data Request 14.6

ICNU Data Request 14.6

Please refer to the response to ICNU 13.1. Please explain the basis for the 5% assumption referenced.

Response to ICNU Data Request 14.6

The Company objects to this request on the basis that ICNU has agreed to, and the Commission has adopted, a stipulation in which the parties resolved all issues in this proceeding other than issues specific to the Indicative Filing and Final Update. ICNU's discovery on issues that it could have raised prior to entering into the stipulation, such as general discovery on the Company's forward price curve rather than discovery specific to the forward price curve used in the Indicative Filing and Final Update, are beyond the scope of the current phase of this docket. Without waiving its objection, the Company responds as follows:

The 5% assumption is a threshold recommended by Deloitte, the Company's external auditor.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 216

Motion for Modified Protective Order

Exhibit 7

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September 28, 2010

Via Email

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Portland, OR 97205

Re: In the Matter of PACIFICORP 2011 Transition Adjustment Mechanism
OPUC Docket No. UE 216

Dear Katherine:

This letter is to request that PacifiCorp fully respond to the Industrial Customers of Northwest Utilities' ("ICNU") Thirteenth set of data requests, or ICNU will file a motion to compel. ICNU has sought to informally resolve this discovery dispute, and those efforts appear to have failed. As PacifiCorp is unwilling to provide ICNU with reasonable access to the information necessary to review the Company's power cost updates, ICNU intends to request that the Administrative Law Judge resolve this issue.

ICNU data request 13.1 requests information regarding the July Official Forward Price Curve ("OFPC"), including a list of documents or types of documents reviewed by the Company in preparing the OFPC and all workpapers and spreadsheets used by the Company to compute the OFPC. ICNU intends to seek similar information for the November OFPC updates, which will be used to set the final transition adjustment mechanism ("TAM") rate increase in this proceeding.

On August 11, 2010, I sent a letter, detailing the incomplete data responses and explaining why PacifiCorp's proposal for ICNU to review the information at PacifiCorp's Atlanta offices was unacceptable.

On August 20, 2010, you sent me a letter providing additional detail regarding the confidential material and providing some additional information on a confidential basis, but reiterating the Company's position that ICNU can only review the allegedly "highly" confidential material at PacifiCorp's offices.

Your letter also made inaccurate and incomplete references to how ICNU has resolved past discovery disputes regarding allegedly "highly" confidential material. ICNU has

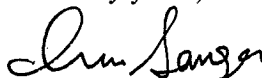
Katherine McDowell
September 28, 2010
Page 2

never agreed that it is appropriate to review "highly" confidential material at the Company's offices, and has only reviewed allegedly "highly" confidential material at the Company's offices in Atlanta in an attempt to informally resolve discovery disputes through "settlement." In all such cases, ICNU was able to complete our review of the issues without the "highly" confidential material. I strongly dispute your mischaracterization of ICNU's previous attempts to informally resolve discovery disputes as establishing a new, acceptable practice. Such distortions of ICNU's previous good faith efforts to resolve PacifiCorp's often and repeated practices of withholding relevant information in the discovery process will only make such compromises more difficult in the future.

Regarding the Thirteenth set of Data Requests, ICNU has made two efforts to attempt to informally resolve this discovery dispute. First, ICNU's witness Randall Falkenberg went to the Atlanta offices of one of PacifiCorp's law firms to review the OFPC. Based on Mr. Falkenberg's review, ICNU has determined that the information may be relevant to issues in this proceeding, and ICNU requests a complete copy of all the allegedly "highly" confidential material. As I wrote in our earlier letter, there is no highly confidential protective order in this proceeding and no requirement that ICNU must review any information at the Company's offices. In addition, ICNU has determined that only being provided access at the Company's offices will prevent ICNU from effectively reviewing, understanding and analyzing the materials. As an example, recalculating the forward price curve based on alternative assumptions would be infeasible under this kind of arrangements. This is especially the case when ICNU will conduct its review of the Company's upcoming November OFPC, when there will be a very limited amount of time to review all of the November updates.

ICNU has sought to obtain information to resolve this discovery dispute through an alternative means (ICNU's 14th set of Data Requests). ICNU specifically requested an alternative GRID study based on a forward price curve derived from broker quotes or the data necessary to compute the GRID study. PacifiCorp refused to provide the requested information arguing that no other forward price curve was available. ICNU, however, requested the data to compute an alternative forward price curve based on broker quotes, which the Company did not provide. The information requested in ICNU's Thirteenth set of Data Requests would provide the necessary data to perform this analysis. In addition, in ICNU Data Request 14.4, ICNU sought information regarding the performance goals for traders. PacifiCorp provided generalized descriptions, but refused provided the actual performance goals. PacifiCorp's refusal to provide the requested information makes it clear that PacifiCorp is unwilling to allow the ability for ICNU to review the OFPC. Complete responses to both the Thirteenth and Fourteenth set of Data Requests are necessary for ICNU to analyze the reasonableness of the Company's July and November power cost updates. Please provide complete information by October 4, 2010, or ICNU intends to file a motion to compel.

Sincerely yours,


Irion A. Sanger

cc: Jason Jones
Catriona McCracken