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October 29, 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 2011 Transition Adjustment Mechanism Schedule 201,  
Cost-Based Supply Service**

Attention Filing Center:

Enclosed for filing in the captioned docket are the original and one copy of PacifiCorp's Motion for Direction on Implementation of Docket UM 1355 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,



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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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

**MOTION FOR DIRECTION  
ON IMPLEMENTATION OF  
DOCKET UM 1355 ORDER**

**EXPEDITED CONSIDERATION  
REQUESTED**

Pursuant to OAR 860-013-0031, PacifiCorp d/b/a Pacific Power (the Company) submits this Motion for Direction on Implementation of Docket UM 1355 Order (Motion) to the Public Utility Commission of Oregon (Commission). The Company requests that the Commission provide direction on how the Company should implement the Docket UM 1355 order into PacifiCorp's Transition Adjustment Mechanism (TAM). *See Re Public Utility Commission of Oregon Investigation into Forecasting Forced Outage Rates for Electric Generating Units*, Docket UM 1355, Order No. 10-414 (Oct. 22, 2010). Specifically, the Company proposes that the Commission direct the Company to either: (1) implement the Commission's decision in UM 1355 in the 2012 TAM; or (2) reflect the UM 1355 order in the 2011 TAM by permitting a special net power cost (NPC) update on December 1, 2010. Unfortunately, such an update would occur after the Final Update required by the TAM Guidelines adopted in Order No. 09-274 and modified in Order No. 09-432 (TAM Guidelines) and would not be reflected in the calculation of the transition adjustment resulting from the Final Update. Given the complexity of the potential implementation of the UM 1355 Order in the 2011 TAM, PacifiCorp requests that the Commission expedite its consideration of this Motion.

1 **I. BACKGROUND**

2 **A. UE 216 Stipulation**

3 On July 7, 2010, the parties filed the Stipulation that resolved the issues in this docket.  
4 On September 16, 2010, the Commission approved the Stipulation in Order No. 10-363. *Re*  
5 *PacifiCorp's 2011 Transition Adjustment Mechanism Schedule 201, Cost-Based Supply*  
6 *Service*, Docket UE 216, Order No. 10-363 (Sept. 16, 2010). Paragraph 11 of the Stipulation  
7 states:

8 The Company agrees to reflect the final Commission decision in  
9 Docket UM 1355 in the 2011 TAM if the decision is timely and  
10 issued prior to the Indicative Filing. The Parties agree that the  
11 adopted schedule in UM 1355, including the proposed  
Commission decision date, would result in a timely order.

12 The proposed Commission decision date in the adopted UM 1355 schedule was October 15,  
13 2010; the Commission's decision in UM 1355 was issued on October 22, 2010.

14 Conditioning the incorporation of the UM 1355 decision into the 2011 TAM on the  
15 timing of the Commission's decision in UM 1355 was important to the Company for two  
16 reasons. First, Schedule 201 rates go into effect on January 1, 2011 and the Company needs  
17 time to incorporate the Commission's changes into the calculation of Schedule 201 rates.  
18 Prior to rates going into effect, the Stipulation calls for two updates—an Indicative Filing on  
19 November 8, 2010 and a Final Update on November 15, 2010. Stipulation at 3. The  
20 October 15 date was determined in part based on the ability of PacifiCorp to incorporate the  
21 UM 1355 order into these updates.

22 Second, the Commission's direct access statutes and rules set forth deadlines for the  
23 Company's actions in implementing the annual direct access election period. The procedures  
24 for the PacifiCorp's direct access election period include the following key steps: (1) pre-  
25 election period mailing to customers eligible for direct access; (2) publication of the Transition  
26 Adjustment through posting of indicative prices at least five days prior to the election period,

1 ORS 757.609(2); OAR 860-038-0275(3); (3) an election period beginning on November 15,  
2 OAR 860-038-0275(1); (4) an election period of 5 days, OAR 860-038-0275(2); and  
3 (5) customer submission of a Direct Access Service Request to PacifiCorp by December 12,  
4 Tariff Rule 21, page 7. When entering into the Stipulation and assisting in the development of  
5 a schedule in UM 1355, PacifiCorp considered the fact that an order in UM 1355 would need  
6 to be issued with enough time for PacifiCorp to incorporate the Commission's decision into  
7 transition adjustment calculations.

8 The Company is in the midst of the first step in the direct access election period. The  
9 Company has printed all of its direct access materials and is now mailing these materials to  
10 customers eligible for direct access. *See Re. PacifiCorp's 2009 Transition Adjustment*  
11 *Mechanism Schedule 200, Cost-Based Supply Service*, Docket UE 199, PacifiCorp's Motion  
12 for Waiver of OAR 860-038-0275(1) and Submission of Amended Stipulation at 2 (Oct. 29,  
13 2008). For this reason, the Company cannot now delay the direct access election period for  
14 2010.

15 **B. UM 1355 Order**

16 Administrative Law Judge (ALJ) Allan Arlow convened a prehearing conference in  
17 Docket UM 1355 on June 25, 2010. At that conference, the parties agreed to and ALJ Arlow  
18 adopted a schedule that set October 15, 2010 as the anticipated decision date for the  
19 Commission's order. *See Re Public Utility Commission of Oregon Investigation into*  
20 *Forecasting Forced Outage Rates for Electric Generating Units*, Docket UM 1355, Prehearing  
21 Conference Report (June 29, 2010). As the UE 216 parties agreed in the Stipulation, the  
22 October 15 deadline would provide sufficient time for PacifiCorp to implement the final order in  
23 the 2011 TAM.

24 Thereafter, Staff filed a motion to amend the schedule, which ALJ Arlow granted on  
25 August 6, 2010. *See Re Public Utility Commission of Oregon Investigation into Forecasting*  
26 *Forced Outage Rates for Electric Generating Units*, Docket UM 1355, Ruling (Aug. 6, 2010).

1 The new schedule pushed back every scheduled date, with the exception of the anticipated  
2 date of the Commission's final order, which remained October 15, 2010. In granting Staff's  
3 motion, ALJ Arlow specifically noted that ICNU did not oppose the motion because Staff  
4 represented that the proposed schedule would not cause a delay in the Commission's ability  
5 to issue a final order by October 15, 2010.

6 Staff then filed another motion to amend the schedule on August 27, 2010. That same  
7 day, the ALJ granted the motion and adopted a new briefing schedule. *Re Public Utility*  
8 *Commission of Oregon Investigation into Forecasting Forced Outage Rates for Electric*  
9 *Generating Units*, Docket UM 1355, Ruling (Aug. 27, 2010). Again, the modified schedule did  
10 not change the anticipated due date for the Commission's final order.

11 Throughout the scheduling process, PacifiCorp expressed concerns that  
12 implementation of the Commission's UM 1355 decision in the 2011 TAM would be difficult  
13 because the TAM scheduled allowed for only two weeks between the Commission's  
14 anticipated decision in UM 1355—October 15, 2010—and the November 1 contract lock-down  
15 when the Company fixes the power cost data and begins calculating the Indicative Filing due  
16 on November 8. See e.g., *Re Public Utility Commission of Oregon Investigation into*  
17 *Forecasting Forced Outage Rates for Electric Generating Units*, Docket UM 1355, Cross-  
18 Examination Hearing, Tr. 47, ll. 15-23 (Aug. 23, 2010). Moreover, the Company indicated in  
19 UM 1355 that if the Commission's proposed collar mechanism, set forth in Order No. 09-479,  
20 was materially modified it would be difficult or impossible to implement the Commission's  
21 UM 1355 order in the 2011 TAM. See *Re Public Utility Commission of Oregon Investigation*  
22 *into Forecasting Forced Outage Rates for Electric Generating Units*, Docket UM 1355,  
23 PacifiCorp's Opening Brief at 8 (Sept. 8, 2010).

24 The Commission ultimately issued its final order in UM 1355 on October 22, 2010.  
25 See *Re Public Utility Commission of Oregon Investigation into Forecasting Forced Outage*  
26 *Rates for Electric Generating Units*, Docket UM 1355, Order No. 10-414 (Oct. 22, 2010). The

Commission's final order made material changes to the Commission's Order No. 09-479  
collar. *Id.*

## II. DISCUSSION

### A. The Commission Could Direct PacifiCorp to Implement the UM 1355 Decision in the 2012 TAM.

Under paragraph 11 of the UE 216 Stipulation, the Company agreed to reflect the UM 1355 decision in the 2011 TAM if the decision is "timely," a term that the parties defined by express reference to the proposed October 15, 2010 Commission decision date in the UM 1355 schedule. As the Company stated throughout the scheduling process, a decision after October 15 would jeopardize the Company's ability to implement the Commission's UM 1355 decision in the 2011 TAM. *See e.g., Re Public Utility Commission of Oregon Investigation into Forecasting Forced Outage Rates for Electric Generating Units*, Docket UM 1355, Cross-Examination Hearing, Tr. 47, ll. 15-23 (Aug. 23, 2010). The Company also stated that if the Commission's proposed collar mechanism, set forth in Order No. 09-479, was materially modified it would be difficult or impossible to implement the Commission's UM 1355 decision in the 2011 TAM.

The Commission's UM 1355 order adopted material changes to the Commission's previously-proposed collar mechanism. Specifically, the Commission's final order requires that all outages be capped at 28 days in the historical average used as a replacement value for outliers. Order No. 10-414 at 5. The Commission also adopted adjustments to the capacity deration methodology and heat rate curves. Order No. 10-414 at 6-8. Because of the labor-intensive nature of these requirements, the Company cannot implement them in time to meet the Indicative Filing and Final Update deadlines set forth in the Stipulation. Additionally, the Commission encouraged PacifiCorp to confer with other parties to explore modeling alternatives to these adjustments. PacifiCorp cannot engage in these discussions unless implementation occurs in the 2012 TAM, instead of the 2011 TAM.

1 Because the Commission's decision was issued one week after the October 15 date  
2 that the parties in UE 216 proceeding agreed was timely, the UE 216 Stipulation does not  
3 appear to require the Company to reflect the UM 1355 decision in the 2011 TAM. Moreover,  
4 implementing the Commission's order in UM 1355 as contemplated in the Indicative Filing and  
5 Final Update in the 2011 TAM is not now possible. For these reasons, and to allow for pre-  
6 filing discussions and a more orderly implementation process, the Commission could direct  
7 the Company to incorporate the UM 1355 decision in the 2012 TAM.

8  
9 **B. Alternatively, the Commission Could Direct a Special Update to Allow the**  
10 **Company to Incorporate the UM 1355 Order in Schedule 201 Rates, but the**  
11 **Special Update Would Follow the Transition Adjustment Calculation.**

12 While the Company could still incorporate the Commission's UM 1355 order into the  
13 calculation of rates in Schedule 201 to be effective January 1, 2011, such an update could not  
14 be completed until after the Final Update set forth in the TAM Guidelines and scheduled for  
15 November 15 pursuant to the Stipulation. The Company estimates that the earliest it can  
16 complete this additional update is December 1, 2010. Because it is now too late to  
17 reschedule the November direct access election window, this schedule would preclude  
18 reflection of the UM 1355 decision in the transition adjustment calculation. The Company has  
19 concerns about updating NPC in this manner after the direct access election period. For this  
20 reason, and because such an update is not authorized by the TAM Guidelines or the UE 216  
21 Stipulation, the Company requests Commission direction on whether to make this special  
22 update to the 2011 TAM.

23 **III. CONCLUSION**

24 The Company respectfully requests that the Commission provide direction to the  
25 Company on whether it should incorporate the UM 1355 order in the 2012 TAM or in the 2011  
26 TAM through a special NPC update. Because the Commission's order on this Motion is



1 necessary to meet upcoming deadlines, the Company requests expedited review of this  
2 Motion.

3  
4 DATED: October 29, 2010.

McDOWELL RACKNER & GIBSON PC

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