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August 1, 2007

BY ELECTRONIC MAIL (PUC.FilingCenter@state.or.us) AND REGULAR MAIL

Public Utility Commission of Oregon Attention: Filing Center 550 Capitol Street NE, Suite 215 Salem, OR 97301-2551

Re:

Wah Chang v. PacifiCorp

Docket UM 1002

Dear Sir or Madam:

Enclosed for filing is Wah Chang's Motion to Strike PacifiCorp's Supplemental Reply Testimony and Request for Expedited Consideration, with attached Certificate of Service.

A courtesy copy is enclosed for the Administrative Law Judge.

Very truly yours,

Richard H. Williams

RHW:djs

Enclosure cc (w/enc)

ALJ Patrick Power

Service List

006854.0164/640698.1

PORTLAND, OREGON 97204-3158

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4	BEFORE THE PUBLIC UTILITY COMMISSION
5	OF OREGON
6	UM 1002
7	WAH CHANG,) WAH CHANG'S MOTION TO STRIKE
8	Petitioner,) SUPPLEMENTAL REPLY TESTIMONY) AND REQUEST FOR EXPEDITED
9	vs. CONSIDERATION
0	PACIFICORP,
1	Respondent.
2	
3	Wah Chang moves for an order striking the following part of the Supplemental
4	Testimony of Charles J. Cicchetti, Ph.D., and Jeffrey A. Dubin, Ph.D., filed on behalf of
15	PacifiCorp, on the ground that it is outside the permitted scope of sur-rebuttal testimony and
16	violates the Ruling of the Administrative Law Judge issued July 27, 2007 (the "Ruling"):
17	Page 5, line 24 (beginning with the word "Second") through page 7, line 4.
18	Wah Chang further moves for an order requiring PacifiCorp to refile, not later than noon
19	on Monday, August 6, 2007, the "supplemental reply testimony" as sur-rebuttal testimony
20	omitting the portions identified above.
21	Wah Chang requests expedited consideration of this motion. Wah Chang intends to file
22	written sur-surrebuttal testimony as permitted by the Ruling. A ruling on this motion in advance
23	of the filing is needed to determine whether Wah Chang will be required to rebut the improper
24	testimony.
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1	DISCUSSION
2	The Ruling granted PacifiCorp's motion to file sur-rebuttal testimony responding to
3	Mr. Howard's rebuttal testimony about his statistical study of PacifiCorp's transaction reports to
4	Dow Jones. PacifiCorp did not seek, and the Ruling did not grant, permission to file
5	supplemental reply testimony responding to Mr. McCullough's testimony about PacifiCorp's
6	participation in Enron's ricochet schemes. To the contrary, during the conference call on
7	July 27, 2007, PacifiCorp's counsel, in response to a direct question, gave explicit assurance that
8	the testimony would be limited to rebuttal of Mr. Howard's study.
9	Notwithstanding the Ruling and PacifiCorp's assurance, PacifiCorp filed "supplemental
10	reply" testimony that, true to its name, supplemented Dr. Cicchetti's testimony replying to
11	Mr. McCullough. The offending testimony begins "Mr. McCullough alleges that" and continues
12	with a purported reply to Mr. McCullough's testimony concerning PacifiCorp's participation in
13	ricochets. This "supplemental reply" testimony does not rebut Mr. Howard's study, which does
14	not address ricochets.
15	PacifiCorp should be required to refile the Cicchetti-Durbin testimony, properly
16	designated as sur-rebuttal testimony, omitting the improper testimony. A prompt refiling is
17	needed so that Wah Chang's sur-surrebuttal testimony can refer to the correct pages and lines of
18	the Cicchetti-Durbin testimony.
19	DATED: August 1, 2007
20	LANE POWELL PC
21	
22	By Fishard H. W.11: ~~ Richard H. Williams, OSB No. 72284
23	Milo Petranovich, OSB No. 81337
24	Attorneys for Petitioner Wah Chang
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1	<u>CERTIFICATE OF SERVICE</u>
2	I certify that on August 1, 2007, I served WAH CHANG'S MOTION TO STRIKE
3	SUPPLEMENTAL REPLY TESTIMONY AND REQUEST FOR EXPEDITED
4	CONSIDERATION upon all parties of record in this proceeding, by delivering a copy in person
5	or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail
6	pursuant to OAR 860-013-0070, to the following parties or attorneys of parties:
7	Paul Graham
8	Assistant Attorney General Department of Justice Regulated Utility & Business Section
9	1162 Court Street NE Salem, OR 97301-4096
10	paul.graham@state.or.us
11	Natalie Hocken Vice President & General Counsel
12	PacifiCorp 825 NE Multnomah, Suite 2000
13	Portland, OR 97232 natalie.hocken@pacificorp.com
14	By Hand Delivery:
15	James M. Van Nostrand Perkins Coie LLP
16	1120 NW Couch Street, Tenth Floor Portland, OR 97209-4128
17	jvannostrand@perkinscoie.com
18	fichand H.w.llind
19	Richard H. Williams
20	Of Attorneys for Petitioner Wah Chang
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