

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

3 UE 177 (4)

4 In the Matter of

5 PACIFICORP, dba PACIFIC POWER,
6 (UE 177)

7 Filing its tariffs establishing automatic
8 adjustment clauses under the terms of SB 408.

STAFF'S OPENING BRIEF

9 **I. INTRODUCTION**

10 On January 14, 2011, the Public Utility Commission of Oregon Staff (Staff) entered into
11 a Stipulation with PacifiCorp (Company) and the Citizens' Utility Board (CUB).¹ On January
12 21, 2011, Staff filed Joint Supporting Testimony in the support of the Stipulation. On February
13 18, 2011, Staff filed Joint Testimony in response to the Industrial Customers of the Northwest
14 Utilities ("ICNU") objections and testimony opposed to the Stipulation. Consistent with the
15 schedule in this proceeding, Staff respectfully submits this opening brief.

16 Staff respectfully requests that Part I of the Stipulation be approved because it correctly
17 applies ORS 757.768 and OAR 860-022-0041.² Furthermore, Staff respectfully requests that
18 Part II of the Stipulation be approved because it is a prudent approach that also contains
19 protections for customers.

20 **II. DISCUSSION**

21 Staff, which is a party to the Stipulation and participant in the joint testimony supporting
22 the Stipulation, has had an opportunity to review the Company's opening brief. Staff agrees and
23 supports the legal conclusions contained within the Company's opening brief.

24
25 _____
26 ¹ CUB joined Part I of the Stipulation, but is not a stipulating party to Part II.

² OAR 860-022-0041 as amended by adoption of a temporary amendment. See Docket AR 547, Order No. 11-064 (Feb. 22, 2011).

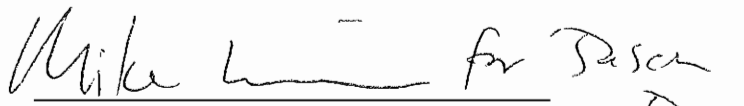
1 In determining whether or not to approve Part I of the Stipulation, Staff, however,
2 believes that the most applicable legal conclusions to focus on for deciding this case are
3 contained in the Company's Opening Brief Section 3(A-C). Specifically, the record
4 demonstrates that Part I of the Stipulation complies with SB 408 and OAR 860-022-0041; the
5 ICNU proposed alternative is inconsistent with SB 408 and OAR 860-022-0041; and, ICNU
6 offers no alternative calculation to the Stipulation.

7 As outlined in the Company's opening brief, ICNU did not provide any evidence that the
8 Stipulation was inconsistent with the statute and rules nor could Ms. Blumenthal directly answer
9 ALJ Hardie's questions regarding where the Stipulation was inconsistent with SB 408 or OAR
10 860-022-0041. Instead, Ms. Blumenthal testified that her calculation "was intended more to
11 open a new dialogue about how we should approach this" TR. 68:10-12. The objective of this
12 proceeding, however, is to implement SB 408 and OAR 860-022-0041 and new dialogue is more
13 appropriate for future rulemaking proceedings or other appropriate forums.

14 **CONCLUSION**

15 For the foregoing reasons, Staff respectfully requests that the Commission adopt the
16 Stipulation in its entirety.

17 DATED this 11^B day of March 2011.

18 Respectfully submitted,
19
20 JOHN R. KROGER
Attorney General
21  for Jason
22 Jason W. Jones, #00059 Jones
23 Assistant Attorney General
24 Of Attorneys for Staff of the Public Utility
Commission of Oregon
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1 **CERTIFICATE OF SERVICE**

2 I certify that on March 11, 2011, I served the foregoing Opening Brief upon the parties in
3 this proceeding by electronic mail and delivering a true, exact and full copy by regular mail,
4 postage prepaid, or by hand-delivery/shuttle, to the parties accepting paper service.

5 **W**

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PACIFIC POWER & LIGHT

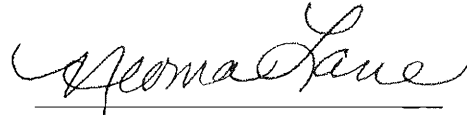
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