BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 246

In the Matter of PACIFICORP, dba PACIFIC POWER's Request for a General Rate Revision	STAFF'S POST-HEARING BRIEF

1. INTRODUCTION

The Staff of the Public Utility Commission of Oregon (Staff) previously filed a pre-hearing brief that set forth and explained the legal standards for review, considerations for a possible prudence disallowance, the state of the record, and Staff's position on the remaining open issues. Staff stands by its pre-hearing brief and incorporates it by this reference as its response to matters not discussed in this post-hearing brief. Indeed, Staff intends to limit its discussion of issues in in its post-hearing brief to only those with aspects that warrant further exploration. In this regard, Staff will primarily address certain facets of PacifiCorp's (PacifiCorp or Company) request for recovery of its environmental controls (sometimes referred to as "retrofits") at select thermal generation plants ("coal plants") and its request for a power adjustment mechanism (PCAM) and the Industrial Customers of Northwest Utilities' (ICNU) related issue on the Transition Adjustment Mechanism (TAM).

2. ENVIRONMENTAL CONTROL INVESTMENTS (COAL PLANT ISSUE)

A. CUB and Sierra Club seemed to have limited their challenge to only certain coal plants

As a preliminary matter, Staff observes that, as this proceeding has progressed, it has been become increasingly less clear which of the seven coal plants (with their respective investments) are expressly being challenged by the Citizens' Utility Board (CUB) and Sierra Club. CUB now seems to primarily contest only the environmental retrofits at the Naughton

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Units 1 and 2 (Naughton 1&2) and at Jim Bridger Unit 3 (Bridger 3). *See* CUB Prehearing Brief at 41 ("So for this docket CUB's focus is trained on Naughton 1 and 2 and Bridger 3") and CUB/200, Jenks-Feighner/41 ("While CUB's modeling of other plants [Staff note: "other" in context refers to plants other than Naughton 1&2 and Bridger 3] did not demonstrate imprudence, it did support our concerns about PacifiCorp's approach, its unwillingness to look for a least cost/least risk solution, and its failure to update its analysis as conditions changed.").

Similarly, Sierra Club, while ostensibly contesting the retrofits at Naughton 1&2 and Hunter Units 1 and 2 (Hunter 1&2), seems now to concentrate mainly on the environmental control investments at the Naughton units. This shift in Sierra Club's focus is shown by its final round of testimony in which Sierra Club witness Fisher stated that he was going to address only Naughton issues because he had had "insufficient opportunity to review the Company's new evidence with regards to the Hunter plant." *See* Sierra Club/300, Fisher/1. Witness Fisher made a similar statement at the oral hearing held October 15, 2012, when he testified in response to a question about PacifiCorp's revised PVRR(d) analyses that "I can only talk about Naughton 1 and 2 with any degree of certainty." Transcript (TR) at 187 (Fisher).

B. Staff's conclusions remain unchanged

Staff's position has not changed from that set forth in its reply testimony (Staff/1500) and as summarized in its prehearing brief. Staff identified certain infirmities or deficiencies with PacifiCorp's decision-making process. However, in applying the applicable legal standard to the facts, Staff concluded that the Company's actions with regard to each of the coal plants at issue were ultimately not imprudent.

C. The Boardman phase-out issue

Briefly stated, this issue concerns CUB's assertion that PacifiCorp knew, or should have known, when it was formulating its retrofit plans in 2008 that early phase-out of a coal plant was permissible under the so-called "Best Available Retrofit Technology" (BART) analysis. The

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early phase-out analytical option was first employed by Portland General Electric in arriving at its decision to close its Boardman coal plant in 2020 rather than at the end of its depreciable life.

In response, both PacifiCorp and Staff stated that the Boardman approach was not officially recognized as being permissible by regulators until late 2010, too late to be employed by PacifiCorp in preparing its analysis for the coal plants at issue, and after construction was well under in way in 2009 and early to mid-2010 to install the retrofits (construction dates vary depending upon the coal plant). Staff discussed the "Boardman issue" in more detail in its prehearing brief at pages 8-9.

The only information to add to this discussion is that CUB witness Bob Jenks testified at the hearing that certain "posts" on CUB's website dated January 15, 2010 characterized the approval by regulators of the Boardman phase-out as a "new" approach and as a "turning point in the discussion about Boardman." *See* TR at 212-213 (CUB witness Jenks referring to PacifiCorp Cross Exhibit 2304). In other words, CUB's position in its Website posts is seemingly inconsistent with its assertion that PacifiCorp knew, or should have known, in 2008 (or even 2009) that using a Boardman type phase-out approach under BART was permissible (or even possible).

D. Commissioners' request for briefing of legally enforceable emissions limits for PacifiCorp's coal plants at issue

In its Briefing Memorandum issued November 1, 2012, the Commission requested, broadly paraphrased, that PacifiCorp identify and explain the laws and facts that required it to install the SO2 environmental control retrofits at issue. The Commission also invited other parties to address its questions as well. Staff believes it can best contribute to the discussion by answering selected parts of the Commission's questions straight-out, followed by a brief explanation. In this regard, Staff will not replicate, unless necessary to do so, the prior explanations of the law, and general facts, which the parties previously presented.

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(1) Did participation in the SO2 Backstop Trading Program in Wyoming and Utah trigger any legally enforceable emissions limits or unit-specific pollution controls applicable to PacifiCorp's plants or units?

Very briefly stated, Wyoming, Utah and New Mexico are all subject to the market trading provisions for SO2, or what has been referred to as the "Backstop Trading Program" (Program). The Program was developed under rules implementing the federal Clean Air Act (CAA) provisions intended to remedy impaired visibility in areas identified as Class I areas under the CAA and its implementing provisions. *See* Clean Air Act, Section 169A, 42 U.S.C. § 7491(a)(1). Typically, a state with a Class I area must submit a "state implementation plan" (SIP) to the EPA under 40 C.F.R. § 51.308 (Section 308). Certain western states (including Wyoming, Utah and New Mexico) had the option to submit regional haze SIPs for Class I areas on the Colorado Plateau that are based on the recommendations of the Grand Canyon Visibility Transport Commission (GCVTC). *See* 40 C.F.R. § 51.309 (Section 309). Utah, Wyoming and New Mexico have done so.[1]

The first part of the Commission's question asks whether participation in the Program triggers any legally enforceable emissions limits for PacifiCorp's coal plants (or units). The answer is no, participation in the Program in and of itself did not trigger any enforceable emissions limits.

However, Wyoming and Utah were required to include in their Section 309 SIP SO2 emissions caps or "milestones" that decline over time through 2018 for stationary sources. The Program will be triggered if a milestone is not met in a particular year. 40 C.F.R § 51.309(d)(4)(v). A Section 309 SIP must provide for penalties in any year of excessive

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[1] Wyoming submitted its first Section 309 SIP to the Environmental Protection Agency (EPA) in 2003 and subsequently submitted revised versions in 2008 and 2011. Utah submitted its revised Section 309 SIP to the EPA in 2008. The EPA has not approved either state's SIP but recently has proposed to adopt them for SO2. PAC/1400, Woollums/11; Approval, Disapproval and Promulgation of State Implementation Plans; State of Utah; Regional Haze Rule Requirements for Mandatory Class I Areas, 77 Fed Reg 28825-02 (May 16, 2012); Approval and Promulgation of State Implementation Plans; State of Wyoming; Regional Haze Rule Requirements for Mandatory Class I Areas, 77 Fed Reg 30953-01 (May 24, 2012).

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emissions following 2018, based on the 2018 milestone. 40 CFR 51.309(d)(4)(vi). Also, beginning in 2018, a Section 309 SIP must prohibit emissions from covered stationary sources if SO2 emissions exceed the year 2018 milestone. However, a revised implementation program may be approved by EPA as meeting Best Available Retrofit Technology (BART) and making reasonable progress under 40 C.F.R. §51.308(f).

As to the second part of this question, all parties, including staff, appear to agree that the 309 SIPs are *not* source-specific but instead set regional emissions limits for stationary sources. Instead of source-specific BART controls, states may implement the Backstop Trading Program as long as they can show that it will provide greater reasonable progress than would be achieved by the application of BART. 40 C.F.R. § 51.309(d)(4). Under Wyoming's SIP, the 2018 milestone for PacifiCorp's coal plants is based on an emissions rate of 0.15 lbs/mmBtu (0.15 Btu). Under Utah's Section 309 SIP, each plant must achieve an emissions rate of 0.12 lbs/mmBtu (0.12 Btu). *See* PAC/2003, Teply/64; *see also* Milestones for Wyoming: 77 Fed Reg 30953, 30963 (May 24, 2012); Milestones for Utah at 77 Fed Reg 28825-02, 28834 (May 16, 2012).

(2) What documents in the record identify the source and effective date of the required emissions limits or pollution controls?

There were source-specific requirements for SO2 (and PM and NOx) controls for each of the coal plants at issue and these requirements are set forth in the permits Wyoming and Utah issued consistent with their SIPs. A discussion of each permit requirement is found throughout PacifiCorp's submitted testimony and a concise summary of this information is located at pages 23-25 of the Company's Prehearing Brief. *See also* PAC/500, Teply/28-86.[2]

[2] Sierra Club has argued that PacifiCorp voluntarily sought the permits at issue and suggests this means PacifiCorp was not really under any emission limitations requirement. In turn, PacifiCorp has argued that it was prudent for it to seek the permits when it did. Staff has stated it agrees with PacifiCorp on this point. But, setting this particular dispute aside, Staff concludes that, once projects were installed under the terms of the relevant permits, any emissions limitations included in the permits were binding up PacifiCorp. Further, Sierra Club appears to agree with this assessment. *See, e.g.*, Sierra Club Prehearing Brief at 20 ("Once the permitted construction

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Copies of the permits are found in the record as follows:

(1) Naughton 1&2: Permit MD-5156 found at Sierra Club/105, Fisher/2-4; and Permit MD-6042 found at PAC/2002.

(2) Hunter 1&2: Permit (Utah Approval Order DAQE-AN0102370012-08) (SO2 at Hunter 1, SO2 and NOx at Hunter 2) found at PAC/2003, Teply/64.

(3) Bridger 3: Air Quality Permits MD-1552 and MD-1552A (SO2) found at PAC/2004, Teply/131; MD-6040 found at PAC/2004.

(4) Dave Johnston Unit 4: Air quality Permit MD-5098 and BART Permit MD-6041 found at PAC/2005, Teply/237-259.

(5) Wyodak: Air Quality Permit MD-7487, BART Permit MD-6043; Air Quality Permit MD-7487; and BART Permit MD-6043, all found at PAC/2006, Teply/118-161.

Before turning to the Commission's next question, Staff will address Sierra Club's assertion that the Wyoming Department of Environmental Quality (WYDEQ) rescinded in its BART Application Analysis (dated May 28, 2009) (WYDEQ Analysis) the emissions control mandates set forth in the Naughton 1&2 SO2 permits. *See, e.g.* Sierra Club Prehearing Brief at 12, referencing Sierra Club/111 at 53. Staff disagrees with Sierra Club's interpretation of the WYDEQ Analysis.

The May 28, 2009 WYDEQ Analysis is a document describing the BART analysis the EPA required Wyoming to conduct whether or not Wyoming decided to proceed with the Section 309 SO2 Milestone and Backstop Trading Program. This is illustrated by Wyoming's statement that "Sources that are subject to BART are required to address SO2 emissions as part of the BART analysis even though the control strategy has been identified in the Wyoming §309 Regional Haze SIP." *See* Sierra Club/111 at 2 (WYDEQ Analysis).

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projects (i.e. the SO2 scrubbers) were installed, PacifiCorp had to meet a performance limit of 0.15 lbs/mmBtu, but the permit expressly stated that the emissions limit was, 'effective upon installation or upgrade of the control equipment.')

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As such, the results of the EPA-required BART analysis had no bearing on what Wyoming required PacifiCorp to do in relation to SO2 because Wyoming had decided to go forward instead with the SO2 Milestone and Backstop Trading Program. Thus, in context, it makes sense for Wyoming to conclude that the technology determined through a BART analysis to be BART would not be required because Wyoming had decided to comply with the Regional Haze requirements for SO2 through the Backstop Program rather than through BART. *See* Sierra Club/111 at 53.

This interpretation of the WDEQ Analysis is reinforced by the fact that permits MD-5156 and MD-6042 were issued in December 2009, after the May 28, 2009 Wyoming BART Application Analysis. In this way, the permits supersede the WYDEQ BART Application Analysis.

It is also important to remember that by its Analysis, the WYDEQ requires PacifiCorp to participate in the Backstop Trading Program. Consistent with this, the Naughton permits require PacifiCorp to comply with all requirements of the Program. As stated, the Backstop Trading Program is set forth in Wyoming's Section 309 SIP. The 309 SIP sets year-by-year SO2 emission milestones for the entire three state region covered by the Regional SO2 Milestone and Backstop Trading Program. The Wyoming SO2 milestones are based on unit emission rates of 0.15 # SO2/MMBTU in 2013 (309 SIP Technical Support Document Spreadsheet entitled 10-6-10 milestone).

(3) What plant-specific emissions limits applied to Pacific Power for the years 2006-2009?

As far as Staff is aware, there is nothing in the record discussing what plant-specific emissions limits applied to PacifiCorp for the referenced timeframe of 2006-2009 (technically, some permits discussed immediately above were issued on the last day of the referenced timeframe). The Company's plants in Wyoming were stationary sources subject to allowance limitations under the Section 309 SIP effective May 7, 2008 for SO2 emissions. The Company's

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plants in Utah were stationary sources subject to allowance limitations under the Section 309 SIP effective November 10, 2008 for SO2 emissions. The requirements of the Section 309 SIPs were to be integrated into source permits. *See* Utah Administrative Code R307-25-14 (2008); Wyoming Department of Environmental Quality Rules Ch.14 Section 2(m) (2008).

(4) If the plant-specific emissions limits were exceeded, on what date would PacifiCorp be penalized for the exceedance? On what date would PacifiCorp have to demonstrate compliance with any requirements resulting from the exceedance?

Staff combines these two questions and answers them as follows. Neither PacifiCorp nor Sierra Club discussed these matters in any detail. Indeed, at the oral hearing, PacifiCorp witness Woollums testified that she had not become knowledgeable about the assessment of penalties because the Company had no intention of exceeding the required emissions limits. *See* TR at 58-59 (Woollums). Sierra Club witness Fisher testified that he was not familiar with the penalty process either. TR at 183-186 (Fisher).

Preliminarily, Staff notes that it has not had sufficient time to be able to respond to these complex questions with absolute certainty. Having said that, Staff first generally observes that there may be penalties under state and federal law for violating permit conditions. For example, the states may assess a penalty up to $10,000 for each violation per day for a permit violation. Wyoming Statutes 35-11-901; Utah Code 19-2-115(2).

Under the Wyoming and Utah Section 309 SIPs, provision is made for special penalties to support meeting the 2018 milestone for SO2 emissions, consistent with 40 CFR § 51.309(d)(iv)(B). If the Program is triggered and it will not start until after the year 2018, Wyoming and Utah may assess a special penalty against sources within their respective states that exceed the 2018 milestone. Each state shall seek at least the minimum financial penalty of $5,000 per ton of SO_2 emissions in excess of a source's allowance limitation. Any source may resolve its excess emissions violation by agreeing to a streamlined settlement approach where the source pays a penalty of $5,000 per ton or partial ton of excess emissions and the source makes the payment within 90 calendar days after the issuance of a notice of violation. *See* Wyoming

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Department of Environmental Quality Rules at Chapter 14, Section (2)(l); TR at 37-38; Utah Administrative Code R307-250-13 (2008).

Any source that does not resolve an excess emissions violation in 2018 in accordance with the streamlined settlement approach will be subject to civil enforcement action, in which the State shall seek a financial penalty for the excess emissions based on the State's statutory maximum civil penalties. The special penalty provisions for 2018 will apply for each year after 2018 until the State determines that the 2018 milestone has been met. *See* Wyoming Department of Environmental Quality Rules at Chapter 14, Section (2)(l); TR at 37-38; Utah Administrative Code R307-250-13 (2008).

In addition, under both the Utah and Wyoming Section 309 SIPs, a stationary source will incur an allowance deduction penalty if the source cannot meet allowance limitations under the Program. The source's emissions allowance may be reduced by an amount equal to three times the source's tons of excess emissions if they are unable to show compliance after the Program is triggered and allowances are recorded. *See* Wyoming Department of Environmental Quality Rules at Chapter 14, Section (2)(k); Utah Administrative Code R307-250-12(3) (2008).

(5) Other than its PVRR(d) analysis, did Pacific Power consider any other compliance alternatives to installing the emissions controls at its BART specific units?

No Staff input.

(6) What evidence in the record demonstrates the company's consideration of compliance alternatives such as finding an alternative generating source to meet customers' needs?

No Staff input.

3. STAFF'S RECOMMENDED PCAM STRUCTURE

A. PacifiCorp's reliance on old PGE testimony in UE 180/181/184 should be given little or no weight.

At the hearing, PacifiCorp asked Mr. Schue about Exhibit PGE/1900 in Docket UE 180/181/184. This Exhibit is rebuttal testimony of Jay Tinker, Stephen Schue, and Ted Drennan in that Docket. Mr. Schue was a witness for Staff in this proceeding, sponsoring Exhibits

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Staff/500 and Staff/1400. PacifiCorp noted that Exhibit PGE/1900 included analytical support for Portland General Electric Company's (PGE) position in UE/180/181/184 that a Power Cost Adjustment Mechanism (PCAM) should not include a dead band.

There are three important points related to Exhibit PGE/1900 in Docket UE 180/181/184. First, Mr. Schue did not work on the dead band portion of Exhibit PGE/1900. His assignments concerned extrinsic value of thermal (primarily natural gas) resources, implications of the on-line date for the Port Westward facility, and forced outage rates for thermal (primarily coal) plants. Second, the dead band should be considered in context. In Docket UE 180/181/184, the Commission issued Order No. 07-015, which included several related decisions. These included whether PGE should have an Annual Update Tariff (AUT, for power costs), whether PGE should have a PCAM at all, and, finally, what the parameters of the PCAM, if ordered, should be. These parameters included i) whether the PCAM should include a dead band, and, if so, what the characteristics of such a band should be, ii) whether there should be sharing outside of the dead band, and, if so, what the percentages should be, and iii) whether there should be an earnings test, and, if so, what the structure of such a test should be. Finally, we now have evidence on the results of the inter-related decisions made in Order 07-015, specifically the AUT and PCAM awarded to PGE.

Order No. 07-015 resulted in PGE's AUT, which revises its forecast of net variable power costs (NVPC) on an annual basis and a PCAM to allocate differences between forecast and actual NVPC. These differences were allocated to shareholders and ratepayers by means of an asymmetrical dead band (for 2007-2010, set by 75 basis points of pre-tax return of equity (ROE) for actuals less than forecast and 150 basis points for actual greater than forecast; then \$15 million and \$30 million beginning in 2011), 90/10 sharing outside of the dead band (90 percent to customers, 10 percent to PGE), and an earnings test (under which PGE would only refund down to a level of earnings 100 basis points above its authorized ROE and only collect

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from customers up to a level of earnings 100 basis points below its authorized ROE). We now have data for the five years during which this structure has operated. For the 2007-2011 period, this structure has resulted in refunds of approximately $22 million to customers, approximately $16.5 million for 2007 and $5.5 million for 2011. For context, these refunds averaged less than 0.7 percent of PGE's NVPC and less than 0.3 percent of PGE's overall revenue requirement. PGE's average actual earnings for 2007-2011 were 9.90 percent, or very close to average authorized earnings of 10.04 percent for this five-year period. In summary, the combination of an AUT and a PCAM including a dead band, sharing, and an earnings test has worked well in practice. Customers received or will receive[3] modest refunds for two of the years and PGE's actual earnings were very close to authorized.

Staff's testimony in this Docket (Exhibits Staff/500 and Staff/1400) is informed by these good results for PGE and its customers over the 2007-2011 periods. Specifically, Staff supports continuation of annual Transition Adjustment Mechanism (TAM) filings and a PCAM with a dead band/sharing/earnings test structure like that which Order No. 07-015 directed PGE to implement.

B. The two Standard & Poor's Ratings Direct reports PacifiCorp introduced are irrelevant to this proceeding.

For the hearing, PacifiCorp introduced two Standard & Poor's Ratings Direct reports, one dated March 10, 2008, the other dated October 4, 2012. These reports discuss the possibility that renewable portfolio or energy standards might negatively impact utilities' credit quality. However, as Staff noted at the hearing, the possibility of Oregon's Renewable Portfolio Standard adversely impacting PacifiCorp's credit quality is very small. The two ways in which a renewable portfolio standard might negatively impact a utility's cost recovery, and hence

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[3] The Stipulation in Docket UE 256, PGE's 2011 PCAM filing, will result in a $5.5 million refund to customers in 2013. Order No. 12-402 approved this refund.

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earnings, potential, are i) regulatory lag for capital and other fixed expenditures, and ii) insufficient recovery of variable costs. Neither of these is a problem for PacifiCorp in Oregon.

Most of PacifiCorp's renewable resource costs are covered by the Company's Renewable Adjustment Clause (RAC, Tariff Schedule 202) structure, included in the Stipulation approved by Order 07-572 (Docket UM 1330). In particular, the RAC covers large capital expenditures incurred between general rate cases, which might otherwise be under-recovered due to regulatory lag. In this proceeding, PacifiCorp expresses concern that one element of renewable resource variable costs, specifically wind integration costs, are not adequately covered by the TAM structure, which is based on the Company's Generation and Regulation Initiative Decision Tools (GRID) model forecast of net power costs (NPC). However, Staff's testimony establishes that this concern is not well founded. The section of Staff's Prehearing Brief beginning on Line 14 of Page 29 and ending on Line 2 of Page 31 summarizes the support for Staff's conclusion.

In summary, Standard & Poor's concern is not relevant to PacifiCorp's renewable resource cost recovery in Oregon. The RAC eliminates regulatory lag, particularly for large capital expenditures, and the Company is collecting its variable costs in a timely manner, either through the RAC or through its annual TAM filings.

C. Increased renewable penetration does not increase PacifiCorp's risk.

At the hearing, PacifiCorp expressed the view that increased renewable penetration has increased the risk faced by the Company. This view is incorrect. Most of the new renewable resources have been wind turbines. A wind turbine's costs are predominantly capital, i.e. the cost of constructing the turbine. Wind integration and operation and maintenance costs are relatively small. A final potential factor is variation between forecast and actual wind resource output.

The large capital costs have significantly increased PacifiCorp's rate base. This translates into higher authorized earnings and more ability to absorb differences between forecast

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and actual costs. Operation and maintenance costs are minor and are included in base rates, rather than collected through the TAM structure. Staff has demonstrated that the TAM/GRID structure ensures recovery of wind integration costs, which are less than two percent of NPC and less than 0.5 percent of the Company's revenue requirement, in a manner that is as accurate as is practicable.

Whereas the large capital costs of wind turbines have significantly increased PacifiCorp's rate base and hence ability to absorb cost differences, these same resources have added very little to expected NPC and almost nothing to variations between forecast and actual NPC. Therefore, increased renewable resource penetration has decreased PacifiCorp's risk. Stated differently, potential forecast versus actual NPC differences have increased very little, but the ability to absorb these differences has increased substantially, thereby reducing the risk of substantial percentage earnings fluctuations.

Wind resources do potentially introduce another source of risk, variances between forecast and actual output of wind resources over one-year test periods. However, the data provided on Page 2 of Exhibit PAC/1801 indicates that this potential risk generally did not materialize over the 2007-2011 period. For this five-year period, the difference between expected and actual wind resource output was only three percent. In only one of the individual years is there a large variance. Specifically, in 2009, actual wind output was 15 percent below forecast. Normalized to 2013 wind penetration levels, the financial effect of this short-fall was less than $6 million.[4] This figure is small relative to either i) the overall differences between

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[4] On a system basis, the wind resource output shortfall was 728,229 MWh, or approximately 182,000 MWh on an Oregon-allocated basis. Average market sales prices assumed in the Company's 2013 TAM filing are approximately $33/MWh. Therefore, the value of the Oregon-allocated wind output variation in question is approximately $6.4 million. [182,000 x $33 = $6,006,000]

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forecast and actual NPC over the 2007-2011 period (summarized in Table 4 on Page 3 of Exhibit PAC/2200), or ii) current Oregon authorized pre-tax earnings of approximately $290 million.[5]

D. Sharing Does Provide an Incentive for the Company to Minimize NPC.

PacifiCorp maintains that only the threat of a prudence review will incent the Company to minimize its NPC, even in circumstances in which the results will be born primarily by customers. Staff's position is that its 90/10 (90 percent to customers, 10 percent to the Company) sharing structure would, in fact, incent the Company to minimize costs in all circumstances. Staff's Prehearing Brief summarizes this argument beginning on Line 8 of Page 35 and ending on Line 2 of Page 36.

For the hearing, PacifiCorp made available Exhibit PGE/1700, Rebuttal Testimony of Maria Pope in Docket UE 215. In that testimony, Ms. Pope states that the "….deadband and 90/10 sharing act as incentives for PGE to control costs and seek to increase efficiency."[6] (UE 215 Exhibit PGE/1700, at Pope/7, at Lines 20-21) If a 90/10 sharing structure would act as an incentive for PGE, it would do the same for PacifiCorp.

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[5] See Footnote 10 on Page 33 of Staff's Prehearing Brief. Note also that 2013 authorized ROE will be 9.80 percent, rather than 10.00 percent, but the 2013 rate base is larger than the 2011 rate base assumed in the Company's calculation of $43.2 million as representing 150 basis points of pre-tax ROE.

[6] In this statement, "deadband" refers to a $10 million/$10 million symmetrical dead band proposed by PGE in Docket UE 215. Parties to UE 215 subsequently entered into a stipulation which included a $15 million/$30 million dead band.

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4. CONCLUSION

For the reasons stated, the Commission should issue an Order consistent with Staff's recommendations for all contested issues.

DATED this 7th day of November 2012.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on November 7, 2012, I served the foregoing Staff Post-Hearing Brief upon all parties of record in this proceeding by delivering a copy by electronic mail only as all parties waive paper service.

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