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September 24, 2012

Via FedEx and Electronic Mail

Public Utility Commission
Attn: Filing Center
550 Capitol St. NE #215
P.O. Box 2148
Salem OR 97308-2148

Re: In the Matter of PACIFICORP 2013 Request for a General Rate Revision
Docket No. UE 246

Dear Filing Center:

Enclosed please find an original and five (5) copies of the Joint Prehearing Brief on behalf of the Industrial Customers of Northwest Utilities and Citizens' Utility Board of Oregon in the above-referenced docket.

Please return one file-stamped copy of the Prehearing Brief in the self-addressed, stamped envelope provided.

Thank you for your assistance, and please do not hesitate to contact our office if you have any questions.

Sincerely yours,

/s/ Sarah A. Kohler
Sarah A. Kohler
Paralegal

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Joint Prehearing Brief on behalf of the Industrial Customers of Northwest Utilities and the Citizens' Utility Board of Oregon upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail where paper service has been waived.

Dated at Portland, Oregon, this 21st day of September, 2012.

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 246

In the Matter of PACIFIC POWER & LIGHT (dba PACIFICORP) 2013 Request for a General Rate Revision	)))))))	THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES AND CITIZENS' UTILITY BOARD OF OREGON'S JOINT PREHEARING BRIEF

JOINT PREHEARING BRIEF OF

THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES AND CITIZENS' UTILITY BOARD OF OREGON

October 4, 2012

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I. INTRODUCTION

The Industrial Customers of Northwest Utilities ("ICNU") and the Citizens' Utility Board of Oregon ("CUB") submit this joint prehearing brief in PacifiCorp's (or the "Company") general rate case proceeding, Docket No. UE 246. This brief addresses three of the remaining issues in this proceeding, and recommends that the Oregon Public Utility Commission (the "Commission" or "OPUC") reject PacifiCorp's proposed Mona-to-Oquirrh tariff rider, eliminate the Company's transition adjustment mechanism ("TAM"), and reject PacifiCorp's power cost adjustment mechanism ("PCAM").[1/] Rejecting PacifiCorp's proposed special regulatory treatment for the Mona-to-Oquirrh transmission line would reduce the Company's overall rate increase by approximately $12.6 million. If the Commission does not reject the Company's TAM or the PCAM, then ICNU and CUB recommend that the Commission substantially modify the Company's proposals and adopt mechanisms that will more adequately protect customers. Finally, both ICNU and CUB recommend that the Commission adopt the joint partial stipulation on certain revenue requirement items, cost of capital, rate spread, rate design and other issues. The joint partial stipulation is uncontested, represents a reasonable compromise of key issues, and will result in fair, just, reasonable and sufficient rates.

1/ CUB is also filing a separate brief addressing PacifiCorp's pollution control investments.

II. BACKGROUND

On March 1, 2012, PacifiCorp filed its current general rate case seeking an overall net rate increase of approximately $41.2 million, or 3.5% on average (3.5% residential and 4.4% large industrial customer averages) with new rates effective January 1, 2013. PacifiCorp also proposed to increase rates $13.1 million (1.1% on average) sometime in the spring of 2013 related to the Mona-to-Oquirrh transmission line in Utah, and a $9.9 million rate increase related to power costs in the separate TAM proceeding. Overall, the Company proposed an over $64 million rate increase.

PacifiCorp's proposed rate increases follow recent years of relentless and high annual rate increases. Since the acquisition of PacifiCorp by Mid-American Energy Holdings Company ("MEHC"), PacifiCorp has taken an aggressive approach in investing in expensive (and questionable) capital projects, shifting risk and costs to ratepayers. As a result, "rates for Oregon customers have gone through the roof." CUB/100, Jenks-Feighner/12. MEHC promised that it could control costs and rates would increase no more than 4% per year, but MEHC has taken an opposite approach as residential "rates have increased by 60%, more than double the pace of increase in Portland General Electric's rates." Id. Some industrial customer rates have similarly increased dramatically, by almost 20% in 2011 alone. Even during one of the worst recessions in history, the Company has failed to take all reasonable actions to avoid rate increases. While PacifiCorp has failed to control its own costs, the Company is seeking to shift an increasing amount of regulatory risk to taxpayers using pass through mechanisms and special tariff riders. CUB/100, Jenks-Feighner/12-14. It is time for PacifiCorp to focus its efforts on lowering its costs and rates instead of seeking unusual, and perhaps illegal, regulatory treatment for its transmission investments with expanded ability to shift its net power costs ("NPC") onto customers.

The parties have filed multiple rounds of testimony in this proceeding, and resolved all issues except: 1) PacifiCorp's proposal to add the Mona-to-Oquirrh transmission line through a separate tariff rider; 2) PacifiCorp's request for a dollar for dollar pass through of all its actual NPC through unusual mechanism that it is calling a PCAM; 3) whether the TAM should be continued; and 4) the prudence of PacifiCorp's investments in environmental controls at its thermal generation plants. Through a stipulation filed with the Commission on July 12, 2012, parties agreed upon a maximum overall net general rate increase of $23.5 million effective January 1, 2013, which is about half of the $41.2 million general rate increase that PacifiCorp requested to be effective on January 1, 2013. The rate increase may be lowered by the Commission's resolution of the prudence of the Company's environmental control investments at its thermal plants. If the Commission does not reject PacifiCorp's special tariff rider for the Mona-to-Oquirrh transmission line, then rates would be further increased about $12.6 million, likely in the spring or summer of 2013.[2/]

III. ARGUMENT

A. PacifiCorp's Mona-to-Oquirrh Tariff Rider Does Not Meet Oregon's Used and Useful Standard and Must Be Rejected

ICNU and CUB urge the Commission to reject PacifiCorp's separate rate mechanism to recover costs from its as yet incomplete Mona-to-Oquirrh transmission investment as soon as the project is finished (potentially in the spring of 2013). PacifiCorp's proposal is inconsistent with the intent, purpose, and language of Oregon's used and useful standard. This is an inappropriate attempt to circumvent the basic regulatory principle of regulatory lag, and

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[2/] The amount of the Mona-to-Oquirrh transmission line tariff rider was reduced from $13.1million to $12.6 million to reflect the lower cost of capital that parties agreed to use for regulatory purposes in the joint partial stipulation. Joint Partial Stipulation ¶ 14(c)(3); PAC/1600, Dalley/1.

essentially an attempt to allow PacifiCorp to "cherry pick" which future costs and benefits are included in its rates. Fundamentally, "[t]here is nothing unique about the circumstances or magnitude of this project to warrant special-issue ratemaking." ICNU/100, Deen/24.

PacifiCorp's Mona-to-Oquirrh tariff rider violates "the intent of the used and useful standard and general ratemaking principles." Staff/1000, Johnson/2-3. Oregon law requires that, except for water utilities:

> [A] public utility may not, directly or indirectly, by any device, charge, demand, collect or receive from any customer rates that include the costs of construction, building, installation or real or personal property not presently used for providing utility service to the customer.

ORS § 757.355(1). According to the Oregon Supreme Court, the used and useful statute is based on a "basic premise of utility regulation . . . that a utility should be permitted to earn a return only on property that is reasonably necessary to and <u>actually providing utility service</u>." <u>Pac. Power & Light Co. v. Dept. of Revenue</u>, 308 Or. 49, 53 (1989) (emphasis added). Therefore, whenever a utility constructs a new facility, such as a transmission line, this property is excluded from rate base "until it actually is placed in service and, even then, the regulators may not allow it in the rate base until the utility establishes that the property is reasonably necessary to provision of electrical service." <u>Pac. Power & Light Co.</u>, 308 Or. at 53–54. In addition, the Oregon Supreme Court has firmly concluded that the Commission is not empowered "to approve rates of a kind that are specifically contrary to the limitations in ORS 757.355." <u>Citizens' Util. Bd. v. Pub. Util. Comm'n of Or.</u>, 154 Or. App. 702, 716-17 (1998); <u>Util. Reform Project v. Pub. Util. Comm'n of Or.,</u> 215 Or. App. 360, 365-66, 376 (2007).

PacifiCorp's proposal is squarely at odds with the used and useful statute, because it "would in effect allow the investment to be included beyond [the] December 31, 2012, conclusion of this case." Staff/1000, Johnson/2. PacifiCorp has historically recognized this, explaining that the law "prohibits the inclusion of new resources in rates, unless they are in-service prior to the beginning of the rate effective period, because they are not used and useful." Docket No. UE 170, PPL/701, Omohundro/8. PacifiCorp previously explained that, "in the past the Public Utility Commission of Oregon has adopted an approach whereby the new resource is excluded from rates until it is used and useful . . . ." Id. The Mona-to-Oquirrh transmission line will not be used and useful because it will not go into service until about half a year after the date new rates go into effect. Staff/1000, Johnson/2-3; CUB/200, Jenks-Feighner/45; ICNU/100, Deen/24; ICNU/111, Deen/2-3.

PacifiCorp's proposal should also be rejected because it is merely an attempt to avoid the principle of regulatory lag without an extraordinary justification or cause. ICNU/100, Deen/24; Staff/1000, Johnson/3. Regulatory lag is "the delay between rate cases and within a rate proceeding . . . . where rates remain frozen until a new rate is approved." LEONARD SAUL GOODMAN, THE PROCESS OF RATEMAKING (Vol. I) 44 (Pub. Util. Rpts., Inc. 1998). Regulatory lag is a principle recognized in Oregon in which a utility "enjoys both the risk and reward associated with regulatory lag." Re PacifiCorp, Docket No. UM 995/UE 121/UC 578, Order No. 01-753 at 4 (Aug. 28, 2001) (citing Docket No. UM 995, Order No. 01-420 at 29 (May 11, 2011)). As explained by Staff witness Judy Johnson, regulatory lag:

> [R]efers to the fact that, between rate cases, events occur that can help or harm the company and, conversely, help or harm the customers. Consistent with the concept of regulatory lag, rates do not normally change for these 'between rate cases' occurrences. It is expected that they should even out over time.

Staff/1000, Johnson/3.

PacifiCorp does not dispute that the Mona-to-Oquirrh transmission line would traditionally be barred under regulatory lag (and the used and useful concept), but argues that regulatory lag is a "consequence" of traditional rate regulation, rather than a "governing principle." PAC/1600, Dalley/6. PacifiCorp asserts that regulatory lag should be avoided or reduced to properly match costs and benefits, including a separate tariff rider for Mona-to-Oquirrh. Id.

PacifiCorp, however, does not explain that it only wants one-sided reductions in regulatory lag when they benefit the Company. For example, PacifiCorp benefited from reductions in its capital costs over the past couple years, and the principle of regulatory lag allowed the Company to retain higher revenues associated with increased load growth, but pass on the costs of this load growth to customers through the TAM. ICNU/100, Deen/24; Re PacifiCorp, Docket No. UE 227, Order No. 11-435 at 6 (Nov. 4, 2011). PacifiCorp "is not proposing to pass back any of those savings that have occurred in the past or may occur at the time the Mona-to-Oquirrh line becomes operational." ICNU/100, Deen/24. Given PacifiCorp's propensity to file annual rate cases, the regulatory lag that it may experience is minor.

PacifiCorp's proposal should also be rejected because it "has not provided any rationale for extraordinary rate treatment of this investment, other than the fact that it would not normally be included in rates under the Commission's practice." ICNU/111, Deen/3. The line "was developed primarily to meet load growth on the Company's eastern system, and there is no reason why Oregon should deviate from standard rate making procedures to allow extraordinarily early recovery of its costs." Id. at Deen/2. Oregon should not make a one-sided exception to its traditional regulatory policies for a transmission line in Utah that benefits Utah customers.

PacifiCorp also points to past proceedings in which the Commission has allowed Oregon utilities to include the costs of new investments in rates after the conclusion of a general rate case. PAC/1600, Dalley/7-8. For example, PacifiCorp points to the treatment of the Populus-to-Terminal transmission line in the Company's last general rate case and asserts that ICNU has now changed its position on allowing resources to be included in separate tariff riders after the completion of a general rate case. Id. at Dalley/7. It is highly inappropriate for the Company to rely upon ICNU's and CUB's decision to enter into a settlement in which the parties explicitly did not agree to the methods or theories of rate recovery to claim a change in position. See Re PacifiCorp, Docket No. UE 217, Order No. 10-743 at Stipulation at ¶ 22 (Dec. 14, 2010). ICNU and CUB will be reluctant to enter into settlements in the future with PacifiCorp, if global, black box settlements will be used against us in the future, contrary to the explicit language of the stipulation.

PacifiCorp's references to past proceedings fail to recognize the dangers of allowing non-operational facilities to go into rates without proper review. For example, the results of the Coyote Springs experiment strongly caution against preapproval of non-operational facilities. Only one year after the Commission pre-approved inclusion of Coyote Springs in Portland General Electric Company's ("PGE") rate base, PGE was significantly overearning. PGE's revenue was so "excessive," in fact, that Staff recommended the Commission initiate an investigation into the PGE's rates. Re Investigation of Rates of Portland Gen. Elec. Co., Docket No. UE 100, Order No. 96-306, Appendix A, 2 (Staff Memorandum) (Nov. 26, 1996). The primary cause of the overall revenue increase and PGE's 11.47% rate of return was the addition of Coyote Springs to PGE's rate base. Id. at Appendix A, p. 1-2. The OPUC subsequently approved a stipulation and ordered PGE to reduce rates by $30 million or 3% for all customer classes. Order No. 96-306 at 2.

The easiest way for PacifiCorp to avoid the "problem" of regulatory lag is to file a general rate case to correspond with the expected completion of the project. ICNU/111, Deen/3. Instead, the Company has decided that it will "file separate tariff riders to include out-of-time events in rates only when it benefit[s] the company and not the customer." Staff/1000, Johnson/3; ICNU/111, Deen/3. PacifiCorp, however, claims that it could not have filed its general rate case later because the TAM guidelines require the Company to file its general rate case by March 1 of any calendar year. PAC/2100, Dalley/3. PacifiCorp could easily have waited to file next year, or asked ICNU, CUB and Staff to agree to an exemption from the TAM guidelines to file its general rate case later in the year. ICNU and CUB would have readily agreed to delay the filing of a $54 million rate increase for another six months.

The Commission should also reject PacifiCorp's Mona-to-Oquirrh tariff "because it is seeking approval of its costs before they have been completed." ICNU/100, Deen/24. ICNU and CUB agreed as part of the partial stipulation in this proceeding not to challenge the prudence of PacifiCorp's decision to build the transmission line in this case, but ICNU and CUB have not reviewed the costs of the project because it "is not yet complete and should not be considered in this case . . . ." E.g., ICNU/111, Deen/3. There is no agreement on the prudence of the overall amount of expenditures for this project. These "costs should be reviewed in PacifiCorp's next general rate case when the costs are known and not merely an estimate." Id.

B. PacifiCorp's PCAM Should Be Rejected As It Would Be An Unprecedented Shift of Risk and Power Costs to Customers

PacifiCorp requests that the Commission approve a uniquely one-sided PCAM that would essentially allow the Company dollar for dollar recovery of the difference between actual and forecasted net power costs without any sharing mechanisms, deadbands, earnings tests, or amortization caps. Adoption of PacifiCorp's PCAM would result in an unprecedented and harmful approach, as: 1) the PGE and Idaho Power PCAMs are significantly different; 2) PacifiCorp does not have a PCAM in Washington; and 3) the Company's PCAMs in Utah, Idaho, and Wyoming do not allow for 100% pass through of all net power costs. ICNU/111, Deen/8.

Given that the Company has refused to propose a PCAM that is in any way consistent with past precedent, there is no reason for the Commission to attempt to rehabilitate PacifiCorp's PCAM to make it more fair and balanced. If the Commission, however, is inclined not to simply reject the PCAM, then ICNU and CUB propose an alternative PCAM that better ensures that PacifiCorp retains the benefits and risks of normal power cost variations, only recovers power costs when its earnings are not excessive, and partially insulates Oregon from the power cost risks caused by other jurisdictions. Any PCAM for PacifiCorp should be based on the PCAM the Commission originally granted to PGE, with additional customer protections to reflect the fact that PacifiCorp operates as a multi-state utility and PacifiCorp's power cost issues have been, and are likely to continue to be extremely controversial and burdensome.

1. Oregon's Renewable Portfolio Standard and PacifiCorp's Increased Renewable Resources Do Not Support the Adoption of a One-sided PCAM

PacifiCorp's primary argument in favor of its PCAM is that the Company "is entitled" to recover the difference between forecast and actual net power costs because of Senate Bill ("SB") 838, and that the Company's acquisitions of variable renewable generation has resulted in actual power costs exceeding forecasted power costs. PAC/900, Duvall/15-28; PAC/1800, Duvall/3-10; PAC/1700, Bird/2-10. PacifiCorp mischaracterizes Oregon law, which does not authorize dollar for dollar recovery of all net power costs. Similarly, PacifiCorp's renewable resource acquisitions have not resulted in the Company being unable to recover its prudently incurred power costs, and the increased amount of renewable resources does not warrant departing from well-established Commission precedent regarding PCAMs.

SB 838 does not contemplate that a utility should be allowed to use a PCAM to recover the variable costs of renewable energy, let alone the variable costs of all net power costs. SB 838 allows utilities to recover all prudently incurred costs associated with compliance with the renewable portfolio standard, but an "automatic adjustment clause" or "another method that allows timely recovery of costs prudently incurred" can only be established for those limited costs "to construct or otherwise acquire" renewable generation "and associated transmission." ORS § 469A.120. This statutory provision only applies to the fixed costs of renewable resources. ICNU/100, Deen/10; CUB/200, Jenks-Feighner/42-43. Thus, while PacifiCorp may be entitled to an automatic adjustment clause to recover construction and acquisition costs of renewable generation and associated transmission, the Company is not entitled to such a mechanism for its variable renewable or non-renewable generation costs.

PacifiCorp's current regulatory mechanisms allow the Company to recover its prudently incurred costs associated with renewable resources and other power costs. PacifiCorp's wind generation is included in rates already, and the Company "is receiving cost recovery on all of its owned generation resources, including its wind generation, which has a marginal generation cost of near zero outside of integration, shaping, and firming." CUB/100, Jenks-Feighner/4-5; Staff/500, Schue/9-10 ("the Company collects its wind integration costs in a timely manner . . . ."). PacifiCorp also has a renewable adjustment clause that allows it to defer and expeditiously recover the costs of renewable generation and associated transmission outside of the normal ratemaking process. PAC/900, Duvall/27-28.

PacifiCorp's assertion that the volatility associated with its renewable resources justifies a straight pass through to customers of all differences between forecast and actual net power costs is simply "overkill." Staff/500, Schue/10. Wind integration costs represent less than 2% of all net power costs. Id. Even this amount may be overstated as "PacifiCorp has yet to show that all of the costs associated with wind integration are properly accounted for and not duplicated elsewhere in the system." CUB/200, Jenks-Feighner/43-44. PacifiCorp admits that, on an actual net power cost basis, it cannot separately track its wind integration costs from other power costs. PAC/900, Duvall/26; PAC/1800, Duvall/9. Actual power costs are based on complex operations and numerous factors, and it is simply "not possible to isolate the exact deviations of actual from forecasted wind integration costs." Staff/500, Schue/8. As explained by Staff witness Steve Schue, "Alleged differences between forecasted and actual wind integration costs are simply not a good basis for a PCAM incorporating a straight pass through to customers of all differences between forecasted and actual NPC." Id. at 11. Adopting a dollar for dollar PCAM for all PacifiCorp's power costs to ensure the Company collects a small and fundamentally unverifiable amount of wind integration costs would result in the "tail wagging the dog."

PacifiCorp also asserts that a PCAM is necessary because SB 838 has increased the amount of variable generation resources on its system, and has dramatically increased its risk and net power cost under recovery. PAC/900, Duvall/15-18. The Company has failed to demonstrate "that, on a normalized basis, it is unable to recover an appropriate level of NPC in rates under the current regulatory framework," or that any under-recovery is related to the passage of SB 838 or its renewable resource acquisitions. ICNU/100, Deen/10. PacifiCorp's "reasoning on these issues is extremely unpersuasive" and while the acquisition of renewables have required operational changes, the Company's claims "that these changes have caused a massive, systematic under-recovery of NPC in the Company's Oregon rates is misleading at best." ICNU/111, Deen/5. While the Company has acquired significant amounts of renewables, the Company does not claim that it acquired these resources due to SB 838, but that it built these resources because they were the lowest cost and risk. Id. at 8; ICNU/112, Deen/1. If the Company is correct, "then SB 838 has had no impact at all on PacifiCorp's NPC." ICNU/111, Deen/8.

PacifiCorp's assertions that its alleged NPC under-recovery is due to its renewable acquisitions are contradicted by the Company's own data. The Company's alleged under-recovery has remained relatively constant over the past five years, and was actually higher in 2007 when the Company had almost no wind resources. ICNU/100, Deen/9-12; ICNU/111, Deen/5. After a 17-fold increase in wind generation acquisitions, the Company's power cost recovery "problems" have actually improved. ICNU/111, Deen/5. Even if wind generation had caused problems with cost recovery, these issues may be less in the future, as PacifiCorp is planning on much slower growth in renewable resources for more than the next decade. ICNU/100, Deen/11-12.

The example of PGE also contradicts PacifiCorp's assertions that renewable resources somehow cause the Company to be unable to recover its NPC. PGE is also subject to SB 838 and is increasing its renewable resource acquisitions, but "has actually had an issue with over-recovery of its power costs in recent years." ICNU/111, Deen/6 (emphasis in original). CUB witnesses Bob Jenks and Gordon Feighner pointed out that: "The level of variability in PacifiCorp's portfolio, however, has not been demonstrated to be significantly greater than that in PGE's portfolio . . . ." CUB/100, Jenks-Feighner/3.

PacifiCorp asserts that it is different from PGE because, as a net seller of electricity at wholesale, increased wind power has reduced market prices and its revenues from wholesale sales. PAC/1700, Bird/3-8; PAC/1800, Duvall/8. While wind generation has impacted wholesale electricity prices, the Company has not established that these have had a significant impact on its own power costs. ICNU/111, Deen/7. For lower market prices to result in PacifiCorp under-recovering, "market prices would have to be lower than the forecast used to set the value of wholesale revenues in the most recent TAM." Id. Market prices would need to decline more than anticipated and forecast in rates before they resulted in any power cost under-recovery, which has not been established.

PacifiCorp also ignores that its power costs and Northwest market prices are dynamic and have been impacted by fundamental factors other than new renewable resources. There has been a significant economic recession, increased regulation of coal resources, and historic transformation in natural gas prices over the last few years, some of which has lowered the Company's costs and risks. The Company's "omission of consideration of the historic transformation in natural gas prices over the last five years is particularly glaring given the status of natural gas as the marginal resource at many times in the Northwest." Id. As explained by ICNU witness Michael Deen: "The vast majority of its NPC variability is related to its market purchases, coal generation, gas generation, and changes in loads, and PacifiCorp is seeking a PCAM to address the variability in these long standing factors that it has been able to manage without a PCAM." Id. at 8. Similarly, Messrs. Jenks and Feighner make it clear that costs associated with renewable generation are not "a singular compelling reason for a PCAM that shields PacifiCorp from being liable for net power cost excursions." CUB/100, Jenks-

Feighner/3. Ultimately, PacifiCorp has failed to show that SB 838 and the increase in renewable resources requires or supports the adoption of a PCAM.

2. PacifiCorp's PCAM Will Not Benefit Customers

PacifiCorp's PCAM, which will allow dollar for dollar recovery of all differences between forecast and actual power costs, will harm customers by transforming the regulatory compact so that PacifiCorp has a guarantee rather than an opportunity to recover its net power costs. Traditional Oregon regulation sets rates on a forecast basis, after which it is "up to the utility to manage its costs to within the revenue generated by these rates, as it is not guaranteed such cost recovery." CUB/100, Jenks-Feighner/4. Absent unusual circumstances, "between rate cases, the utility typically bears the risk of increased power costs." Order No. 01-420 at 29. Even when PCAMs or power cost deferrals are allowed, "Oregon has traditionally recognized that shareholders absorb some of the normal variation (both positive and negative) that happens between rate cases before shifting that risk to customers." CUB/100, Jenks-Feighner/4.

PacifiCorp, however, argues that it is not shifting any risk to customers, but that ratepayers will benefit from paying for the difference between forecast and actual power costs. PAC/900, Duvall/29-31. After arguing ad nauseam that it needs a PCAM because it cannot handle the normal business risks associated with managing its net power costs, the Company contradictorily argues that a PCAM will "not shift from the Company to customers the risks of prudently managing its system." Id. at 30. Nothing could be further from the truth. The Commission has recognized that normal power cost variations are "part of normal business risk," should be borne by the utility, and that a PCAM should not be used to guarantee that the utility will earn its authorized return on equity ("ROE"). Re PGE, Docket Nos. UE 180, UE 181 and UE 184, Order No. 07-015 at 26-27 (Jan. 12, 2007) ("Order No. 07-015"). Shifting this normal business risk to ratepayers will harm customers by requiring them to pay for costs that are the utility's responsibility, as well as providing PacifiCorp with "very little incentive to work to minimize its net power costs, as these would simply become a pass-through expense to customers." CUB/100, Jenks-Feighner/4.

PacifiCorp also asserts that ratepayers will benefit because its PCAM will provide a more streamlined regulatory process rather than focusing on modeling issues, it will result in a balanced outcome between the Company and its customers, customers will pay the Company's actual costs, and the PCAM may result in lower capital costs in the future. PAC/900, Duvall/29-30. PacifiCorp also promised a streamlined regulatory process and better balancing of costs and benefits when it initially proposed the TAM, and even PacifiCorp now admits that the TAM has "proven to be more adversarial than anticipated, with significant controversies each year over NPC modeling and cost forecasts." Id. at 16. The "benefits" of the TAM failed to materialize as the only party that benefits from a streamlined regulatory process is the Company, as it simply results in a "less thorough review of the prudency and level of NPC in the Company's rates." ICNU/100, Deen/9. The PCAM will also fail to "provide a more balanced outcome between the Company and customers or result in customers somehow more accurately paying for and receiving the benefits of generation." Id.

While ICNU and CUB agree that the Company's PCAM will lower PacifiCorp's capital costs because it "would result in a risk reduction that would in turn warrant a substantial decrease in the Company's authorized Return on Equity, as shareholders would see their risk of investment significantly reduced." CUB/100, Jenks-Feighner/4. PacifiCorp's vague testimony that customers could potentially benefit at some unknown future date is inadequate to justify any actual benefits. Customers should receive these benefits of lower capital costs now, and the

Company should have made "a proposal to reduce its cost of capital concurrent with any PCAM so that it can be evaluated as a complete package." ICNU/100, Deen/9. Regardless, as a pass through PCAM should simply be rejected.

3. ICNU/CUB Alternative PCAM

While ICNU and CUB recommend that the Commission reject a PCAM for PacifiCorp rather than attempting to fix the Company's filing with a more acceptable mechanism, ICNU and CUB propose an alternative PCAM in the event the Commission is inclined to adopt one in this proceeding. ICNU's and CUB's alternative PCAM is based on the original PCAM the Commission adopted for PGE with an earnings test, asymmetric deadbands, cost sharing, and amortization caps, but also includes modifications that reflect the unique circumstances of PacifiCorp. Finally, any adoption of a PCAM for PacifiCorp should also "go hand in hand with elimination or substantial revisions of the TAM process . . . ." ICNU/100, Deen/13. PacifiCorp does not need to insulate itself from power cost changes by both forecasting power costs in a single issue TAM proceeding and updating the forecasts to actuals through a PCAM. Id. This is overkill. It shifts all power cost risks to customers.

The core guiding principle in adopting a PCAM for any utility is that it "should not be triggered except in rare circumstances where power costs are well beyond the normal range." CUB/100, Jenks-Feighner/6. A PCAM should also only operate when the difference between actual and forecast power costs "are large enough to significantly impact the Company's earnings, either positively or negatively." Staff/500, Schue/13. A properly structured PCAM should also be revenue neutral over time and continue to provide the utility with "an incentive to keep costs down, regardless of the size of the difference between forecast and actual NPC." Id. at 13-14. These are the principles relied upon by the Commission when it adopted PCAMs for PGE and Idaho Power, and ICNU, CUB and Staff have all attempted to develop alternative PCAMs that are consistent with these principles.

a. PacifiCorp Should Absorb Small Changes in Power Costs Through a Deadband

The Commission has determined that PCAMs should include a deadband to ensure that the utility will absorb some normal changes in power costs. Order No. 07-015 at 26. The basis for this is that a "normal return on equity constitutes compensation for events occurring in the normal course of business." ICNU/100, Deen/13. In Order No. 07-015, the Commission agreed with CUB "that an asymmetric deadband is necessary to ensure that the PCAM is revenue neutral." Order No. 07-015 at 26. Asymmetric deadbands are critical to ensuring "revenue neutrality in a region heavily dependent on hydro power, as the replacement cost of hydro power in poor water years will outweigh the benefit of additional hydro in good years." ICNU/100, Deen/13-14. Asymmetry is also important to ensure revenue neutrality and because "a utility always has a greater ability to raise rates when costs go up than customers have the opportunity to lower rates when costs go down." CUB/100, Jenks-Feighner/7; CUB/200, Jenks-Feighner/45. This means that the risk to the Company of power costs being lower than forecast is limited, while the risk to customers of power costs being higher than forecast is nearly unlimited. CUB/100, Jenks-Feighner/7.

ICNU, CUB, and Staff all recommend that the Commission adopt the same asymmetrical deadband as the Commission adopted for PGE in Order No. 07-015, which would cover NPC variation from 75 basis points, around PacifiCorp's return on equity below base NPC included in rates, to 150 basis points of the Company's ROE above the base NPC level. CUB/100, Jenks-Feighner/7-8; ICNU/100, Deen/12-14; Staff/500, Schue/16. This will protect

PacifiCorp from extreme power cost fluctuations and not allow dollar for dollar recovery. ICNU/100, Deen/14.

PacifiCorp points out that the parties in PGE's last general rate case agreed to modify PGE's PCAM to modify its deadband to be based on dollar amounts rather than a range around its ROE. PAC/1800, Duvall/20. While the parties agreed to modify PGE's PCAM, this ignores that the change was part of an overall settlement that results in a compromise on a variety of issues, and "PacifiCorp wants to get the fixed dollar dead band without giving up anything." Staff/1400, Schue/13. More significantly, a fixed dollar deadband would produce dramatically different results for PacifiCorp, as the change did not result in "a huge change in the size of the dead band" for PGE. Id. at 15. Since the purpose of a PCAM is to recover normal variations in power costs, "[a] better measure of PacifiCorp's ability to absorb NPC differences is allowed pre-tax return on equity, which is specifically tied to rate base . . . ." Id. As "PacifiCorp's Oregon-allocated rate base is approximately equal to PGE's, PacifiCorp's dead band should not, in any case, be significantly smaller than PGE's." Id. Finally, ICNU and CUB note that their recommendation includes deadbands that are smaller than the 125 and 250 basis point deadbands for Idaho Power, and the Commission has the discretion to approve a larger deadband for PacifiCorp. Re Idaho Power Company, Docket No. UE 195, Order No. 08-238 at 3 (Apr. 28, 2008).

b. A PCAM Should Not Trigger if PacifiCorp Is Experiencing Reasonable Earnings

The Commission has determined that PCAMs should include "an earnings test to determine whether the utility is earning an acceptable rate of return." Order No. 07-015 at 26. An earnings test is necessary "to protect customers from paying for higher-than-expected power costs when the utility's earnings are reasonable, while it protects the Company from refunding power cost savings when it is underearning." Id. This is consistent with the Commission's general principle that "a change in one cost element does not, by itself, require an adjustment to rates because increases elsewhere may offset decreases." Re PGE, Docket Nos. UE 180/UE 184, Order No. 08-118 at 4 (Feb. 14, 2008). Without an earnings test, a utility would be allowed to increase rates even if it were maintaining healthy earnings by offsetting any power cost increase with savings in other areas.

ICNU, CUB and Staff all recommend that the Commission use an earnings test of plus or minus 100 basis points of PacifiCorp's ROE. CUB/100, Jenks-Feighner/7-8; ICNU/100, Deen/12-14; Staff/500, Schue/15-16. This means that if PacifiCorp's "earnings are within 100 basis points of its authorized ROE, the PCAM will not trigger an adjustment in net power costs." CUB/100, Jenks-Feighner/8. As the Commission recognized, a 100 basis point earnings test is appropriate because: 1) there is a range of acceptable ROEs set in rate cases, which are captured with 100 basis points; and 2) "an earnings review does not determine a company's actual ROE with the same accuracy as a full case, because the company's costs are not examined as thoroughly in the earnings review." Order No. 07-015 at 26.

c. PacifiCorp's Sharing Mechanism Should Reflect the Unique Circumstances of the Company

The Commission has recognized that there should be a sharing mechanism for any power costs above or below the range established in the deadband. Id. at 27. A sharing mechanism is important to provide the utility "with an incentive to manage its costs effectively, while sharing costs that are beyond the normal business risk." Id. Absent a sharing mechanism, PacifiCorp would have little incentive to manage its power costs when it knows that it will be refunding or collecting from customers all the costs that exceed the deadband. Staff/500, Schue/18. In other words, a sharing mechanism provides the Company with an incentive to manage its costs under extraordinary circumstances. ICNU/100, Deen/14.

ICNU and CUB recommend that the Commission adopt a 75/25 sharing mechanism for costs outside the deadband with PacifiCorp absorbing only 25% of the costs outside of the deadband. CUB originally, and Staff currently, recommends the 90/10 sharing mechanism that the Commission adopted for PGE. CUB/100, Jenks-Feighner/8; Staff/500, Schue/15-16. ICNU and CUB now agree, however, that a larger sharing mechanism is warranted because it "will help insulate Oregon consumers from subsidizing the outcomes of PacifiCorp's services to other jurisdictions." ICNU/100, Deen/13. PacifiCorp is a multi-jurisdictional utility with a decreasing level of load in Oregon, and the Company's net power costs will largely be driven by the Company's operations in other states. Id. The PCAM should not be a mechanism that the Company can use to shift the costs of power costs in other states to Oregon, and a larger sharing mechanism will help protect Oregon customers. A larger deadband is also warranted because PacifiCorp's power cost proceedings are more controversial and difficult to process than PGE's. PacifiCorp provides far less supporting documentation and workpapers than PGE, and there have been more disputes regarding the scope, prudence and methodologies of PacifiCorp's TAM than PGE's annual update tariff.

PacifiCorp also argues that deadbands and sharing mechanisms are not necessary to provide the Company with an incentive to minimize its net power costs. PAC/1800, Duvall/15-16; PAC/1700, Bird/10. While there are some costs that the Company cannot control, this "claim is exaggerated" as there are numerous aspects of PacifiCorp's costs that it can control. Staff/1400, Schue/22. Conversely, ratepayers should not be required to bear 100% of the costs that they have no ability to minimize. PacifiCorp is allowed a handsome ROE that more than sufficiently compensates it for being responsible for its own decisions regarding the management of its net power costs.

d. Oregon Law Requires that Collections Be Capped at 6%

A PCAM should limit amortization of any amounts collected to 6% of PacifiCorp's revenues for the last calendar year. In Order No. 07-015, the Commission stated that "we adopt CUB's proposal and will limit amortization of deferred amounts under the PCAM in any one year to six percent of PGE's revenues for the preceding calendar year." Order No. 07-015 at 27. The Commission explained that it has "consistently applied" power cost deferrals to the requirements of ORS § 757.259, which includes an amortization cap of 6%. Id. PacifiCorp opposes the 6% cap on the grounds that such a limit should not occur "without more analysis of why such a limitation is appropriate." PAC/1800, Duvall/20. The cap is not only appropriate, but required by law as PCAMs are a form of deferred accounting, which limits amortizations of deferred amounts to not have an overall average rate impact "to exceed six percent of the electric utility's gross revenues for the preceding calendar year." ORS § 757.259(8). For amortizations up to 6%, the law also requires the Commission to review the utility's earnings and allows the Commission to reduce the deferred amounts for other cost savings. Id. There is no reason to depart from these legal requirements or practice.

e. A PCAM Should Not Apply to Direct Access Customers

Finally, any PCAM should not apply to direct access customers. The Commission previously concluded that it agrees "with Staff's and ICNU's arguments that the PCAM should not apply to direct access customers. Those customers already bear the risk of variable power costs through their pricing structure." Order No. 07-015 at 27. PacifiCorp generally agreed that direct access customers should be exempt. PAC/1800, Duvall/19.

f. The Commission's Customer Protections Remain Vital to Ensuring a Fair and Balanced PCAM

PacifiCorp argues these traditional customer protections are unnecessary because they are redundant and punitive, and Order No. 07-015 is "obsolete and inapplicable to PacifiCorp." PAC/1800, Duvall/12-21. While PacifiCorp claims that it is different and that times have changed, the fundamental principles that the Commission relied upon in crafting its orders approving PCAMs for PGE and Idaho Power remain valid today--PCAMs should protect against extraordinary risks, and not guarantee cost recovery for the utility, insulate the utility from normal business risk, nor allow the utility to recover excess power costs when it is experiencing savings and recouping solid earnings.

Contrary to PacifiCorp's assertions, the use of deadbands, an earnings test and sharing mechanism are not "redundant," but each is necessary as they serve separate and distinct purposes. See PAC/1800, Duvall/14. As explained above, the purpose of a deadband is to ensure the utility will absorb normal variation in power costs, while the purpose of the earnings test is to ensure that the utility does not increase rates when its earnings are healthy (or conversely, decrease rates when its earnings are not healthy). Order No. 07-015 at 26-27. The sharing mechanism also has a different purpose, which is to provide the utility with both "an incentive to manage its costs effectively, while sharing costs that are beyond normal business risk." Id. at 27. Finally, the 6% amortization limit is required by law, and necessary for any PCAM. Id. None of these protections should be abandoned or discarded.

PacifiCorp cannot escape the fact that its proposed PCAM is inconsistent with Commission precedent, so the Company argues that precedent simply should not apply to it. PAC/1800, Duvall/20-21. PacifiCorp's efforts to distinguish itself ignore that the Company's PCAMs in other states have customer protections. ICNU/111, Deen/8-9; Staff/500, Schue/15-

16. There is nothing unique about PacifiCorp that would warrant elimination or reduction of the deadband, earnings test and sharing mechanism. Both PacifiCorp and PGE are subject to Oregon's RPS, and the fact that PacifiCorp operates a larger and more complex system warrants additional rather than fewer ratepayer protections. ICNU/100, Deen/12-13; ICNU/111, Deen/6.

g. PacifiCorp's Alleged Net Power Cost Under-Recovery Does Not Support the Adoption of a PCAM

PacifiCorp's final argument is that the PCAM structures recommended by ICNU, CUB, Staff and Kroger should be rejected because the Company allegedly has under-recovered its net power costs and any sharing or deadbands would result in the Company not recovering every single dollar of its actual net power cost under-recovery. PAC/1800, Duvall/10-14. PacifiCorp points out that under its PCAM, customers would have received PCAM-related rate increases in nearly all years, while the proposals of the other parties would result in collections from or payments to customers rarely. Id. at Duvall/12. The Company also claims that requiring the Company to absorb any differences between its forecast and actual net power costs would operate to punish the Company. Id. at Duvall/15-16.

PacifiCorp simply disagrees with all the other parties and the Commission's prior rulings that a PCAM "must be limited to unusual events, there will be no adjustments if overall earnings are reasonable, it must be revenue neutral, and it must operate in the long-term." Order No. 07-015 at 26. Although PacifiCorp is correct that these policies were first adopted for a PGE hydro only PCAM, the Commission has applied these foundational principles to all PCAMs in Oregon. ICNU's and CUB's alternative PCAM is appropriate because it is consistent with these principles, and ensures that it will only trigger during unusual time periods. A properly constructed PCAM will not penalize the Company, but also allow PacifiCorp to benefit when power costs are less than expected. Staff/1400, Schue/15. As summarized by Messrs. Jenks and

Feighner, changes "in net power costs within the deadbands are an acceptable business risk that is accounted for" in the Company's ROE, and there is no compelling reason why the Commission should eliminate "any risk of changes in net power costs to the Company." CUB/100, Jenks-Feighner/9.

PacifiCorp also overstates the importance of its alleged net power cost under-recovery. No party, including the Company, has conducted a comprehensive audit or backcasting of the Company's past actual net power costs to ascertain whether, or the reasons for, the Company's actual net power costs really exceed the amount in rates. There is a wide variety of reasons why actual net power costs can differ from normalized net power costs, and PacifiCorp has not established that it is systematically unable to collect its net power costs in Oregon. ICNU/100, Deen/10. In addition, even if the Company inaccurately forecast its past net power costs, this is not likely to reoccur in the future and a "PCAM request should be viewed in a longer-term context." Staff/1400, Schue/11. PacifiCorp has not established that, over the long-term, ICNU and CUB's proposed PCAM would not be revenue neutral. ICNU and CUB urge the Commission to reject a PCAM for PacifiCorp.

C. The Commission Should Eliminate or Substantially Modify the TAM

The Commission should end the TAM because it is terribly broken, as the Commission itself is aware from living through the brutally acrimonious TAM proceedings. Direct access transition credits or charges can be set without the need for annual power cost updates for cost-of-service customers, and there is no need for an annual power cost only rate case, especially if the Commission adopts a PCAM for PacifiCorp. ICNU and CUB are skeptical that there is any amount of guidelines or procedures that would result in a TAM that adequately protects ratepayers, and this alone warrants its elimination or radical transformation to stop the harm to customers.

The Oregon legislature required investor-owned utilities to allow large customers the option of selecting direct access when it passed Senate Bill 1149 in 1999.[3/] The Commission set transition adjustment credits and charges for PacifiCorp for years without a TAM and only included a power cost update for cost-of-service customers in 2005. Re PacifiCorp, Docket No. UE 170, Order No. 05-1050 at 21 (Sept. 28, 2005). The TAM includes two primary substantive elements, including: 1) calculating transition adjustment credits or charges for direct access customers; and 2) resetting the Company's net power costs for cost-of-service customers. ICNU/100, Deen/15. The Company characterized the TAM as a smooth process necessary to implement direct access and which would allow rates to both increase and decrease. ICNU and CUB, on the other hand, opposed the TAM on the grounds that updating the net variable power costs for cost-of-service customers was unnecessary to set transition credits, would shift power cost risk to customers, and would result in significant disputes about the scope and prudence of inputs, especially in the final update process. ICNU/100, Deen/16-17. The history of the past TAM proceedings has demonstrated that the TAM is not a streamlined process and that rates have never decreased. The TAM has been extremely harmful and controversial. Id. at Deen/17-23. The TAM is a failed experiment that should be eliminated or completely revised.

1. The TAM Is Unnecessary for Direct Access

The primary purpose of the TAM is to set transition adjustment credits and charges in a manner that protects cost-of-service customers. Given that there is almost no direct

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3/ In response to the Commission's direction, ICNU and CUB provided a summary of the purpose and history of the TAM in the posthearing opening brief in PacifiCorp's current TAM proceeding, Docket No. UE 245. ICNU-CUB Joint Posthearing Opening Brief at 2-6. The testimony of Mr. Deen in this proceeding provides a more comprehensive description of the TAM and some of its historic problems. ICNU/100, Deen/14-23. This brief only provides a limited discussion of, and will not fully repeat, the TAM's exhaustive history that is addressed elsewhere. The Commission may take official notice of ICNU's and CUB's summary in their TAM Posthearing Opening Brief pursuant OAR § 860-001-0460.

access load in PacifiCorp's service territory, this purpose can be easily accomplished in far less harmful ways. The Commission can easily capture any costs associated with direct access and protect cost-of-service customers without resetting net power costs for cost-of-service customers. For example, the Commission could use the net power costs set in the last general rate case or simply use a power cost model to estimate net power costs for the limited purpose of calculating transition credits or charges.

In adopting the TAM, the Commission explicitly stated that the purpose of "the TAM is to capture costs associated with direct access, and prevent unwarranted cost shifting." Re PacifiCorp, Docket No. UE 170, Order No. 05-1050 at 21 (Sept. 28, 2005). The Commission also approved PacifiCorp's request to reset net power costs for all customers, but acknowledged that ICNU and CUB had raised legitimate concerns and that it would continue to review and investigate the TAM to address these concerns, including its one-sided nature. Id.

There is no need to set exact and precise transition adjustment credits or charges because participation in PacifiCorp's direct access program has been anemic with between 0.6% and 0.7% of eligible non-residential customer loads participating in the program. ICNU/100, Deen/21; ICNU/105. The parties and the Commission expend a considerable amount of time, resources, and money, in controversial proceedings for less than 1% of eligible loads, or about 5 average megawatts in 2013. ICNU/100, Deen/21-23. PacifiCorp alone spent a huge amount of money on outside legal fees litigating the 2012 TAM, which does not account for all the Company's costs or the costs to the Commission and other parties. Confidential ICNU/103, Deen/1 (PacifiCorp outside legal fees in 2012 TAM). As there are almost no direct access customers, there are few, if any, costs to shift and no need for a TAM to protect non-direct access customers. ICNU/100, Deen/21.

The Commission could easily "set transition adjustment credits or charges on the basis of the Company's most recent general rate case." Id. This would result in resetting power costs in general rate proceedings, and then the direct access charges and credits could be further updated when the Company files a new general rate case. Id. at 21. The Commission could also continue to use its current ongoing valuation method estimating net power costs for the purposes of setting transition adjustment credits and charges, but simply not change the rates for cost-of-service customers. FM/200, Higgins/4-5. Either approach would provide adequate protection to cost-of-service customers, and not provide inappropriate incentives for customers to select (or not select) direct access. See ICNU/100, Deen/21-22.[4/]

2. There Is No Need to Reset Power Costs on an Annual Basis

PacifiCorp and Staff support continuation of the current TAM process, primarily on the grounds that it would work well with a PCAM, and that PacifiCorp should be allowed to file annual power cost rate cases to avoid exposure to power cost-related regulatory lag.[5/] PAC/2200, Duvall/21; Staff/1400, Schue/24. Annual updates of power costs are a recent exception to the Commission's long-standing policy against single issue ratemaking to effectuate direct access, and there is no reason to continue to allow PacifiCorp a single issue power cost rate proceeding if it is not needed for direct access purposes.

The Commission has a traditional policy against single issue ratemaking as it allows utilities to focus on one cost element while ignoring others. Re PGE, Docket Nos. UE

[4/] ICNU and CUB have dropped Mr. Deen's alternative recommendation that the PCAM be used to set transition adjustment credit and charges, and agree with Fred Meyer witness Kevin Higgins that charges and credits should not change based on PCAM updates. FM/200, Higgins/5-6.

[5/] Notably, the Company waited until its final round of surrebuttal testimony to provide a more full response to the recommendation to eliminate the TAM. PacifiCorp's reply testimony included about a half a page responding to the recommendation to eliminate the TAM. PAC/1800, Duvall/22. In contrast, although no new arguments were raised by ICNU or CUB regarding the TAM, PacifiCorp came up with new arguments in support of the TAM in surrebuttal testimony. PAC/2200, Duvall/20-23.

180/UE 184, Order No. 08-118 at 4 (Feb. 14, 2008). Single issue ratemaking is inappropriate as "a change in one cost element does not, by itself, require an adjustment to rates because increases elsewhere may offset decreases." Id. Ratemaking should evaluate all of the utility's expenses to ascertain whether an overall rate increase is warranted. City of Portland v. PGE, Docket No. UM 1262, Order No. 06-636 at 7 (Nov. 17, 2006); Re Qwest, Docket No. UT 125, Order No. 06-515 at 10 n.19 (Sept. 11, 2006).

The TAM has served as a "single issue, power cost-only rate proceeding that only benefits PacifiCorp." ICNU/100, Deen/14. For example, in last year's TAM, PacifiCorp was able to increase its power cost rates $49.5 million primarily related to the cost of serving increased loads without passing on to customers almost the same amount of savings the Company obtained from lower costs of capital and additional revenues associated with selling power to those increased loads. Docket No. UE 245, ICNU-CUB Joint Closing Brief at 4-6; Re PacifiCorp, Docket No. UE 227, Order No. 11-435 at 6 (Nov. 4, 2011).

If the Commission does not eliminate the power cost update element of the TAM, then the Commission should modify the TAM to limit the Company's ability to increase power costs when its overall costs have not increased. For example, similar to how an appropriate PCAM is designed, any TAM for PacifiCorp should include customer protections, including an earnings test. There is no reason for PacifiCorp to increase customer rates for power cost rate increases if the Company is experiencing healthy earnings. ICNU and CUB recommend that PacifiCorp not be allowed to change TAM rates unless its earnings are more than 100 basis points above or below its approved ROE.

ICNU and CUB also recommend that the TAM design be changed during years in which the Company files a TAM outside of a general rate case to more appropriately match costs and benefits. When a TAM is filed outside of a general rate case, PacifiCorp is allowed to include the higher costs associated with load growth, but exclude the associated revenues caused by the same load growth. ICNU/100, Deen/19-20.[6/] This provides PacifiCorp with an institutional bias to overestimate its expected load in a stand-alone TAM, and the Company has taken the position that parties cannot challenge its load growth forecasts. Id. This problem could be remedied by changing the TAM "to remove this incentive to inflate load forecasts in stand-alone TAMs by incorporating additional revenues." Id. ICNU and CUB are not aware of either PacifiCorp or Staff responding to this proposal, and there is no legitimate reason to continue allowing PacifiCorp to increase power costs when its actual costs have not increased due to additional power cost-related revenues.

3. The TAM Process Remains Fundamentally Flawed

PacifiCorp admits that the TAM process "has proven to be more adversarial than anticipated, with significant controversies," but that those problems should not reoccur in the future. PAC/900, Duvall/16; PAC/1800, Duvall/22-23. PacifiCorp is wrong that there is no basis to conclude that the TAM guidelines are ineffective, as the TAM guidelines leave significant unresolved issues, and they can never substitute for a willingness by the Company to fully provide intervenors with sufficient information and a fair opportunity to review, understand and respond to the basis for any rate change.

While ICNU and CUB are skeptical that any amount of TAM related changes or guidelines can reduce disputes unless and until PacifiCorp decides to change its approach to the Oregon regulatory process, there are some process changes that could reduce future disputes if the TAM is not eliminated for cost-of-service customers. First, PacifiCorp should be required to

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6/ This problem does not exist when the TAM is filed in a general rate case, because both costs and revenues related to load growth are adjusted in a general rate case.

fully support all changes in its GRID model or other new issues. The current TAM has suffered from difficulties associated with PacifiCorp not identifying significant changes in its filing, or only providing justifications in its final testimony. Docket No. UE 245, ICNU-CUB Posthearing Opening Brief at 6-8. Specifically, PacifiCorp should be barred from proposing any modeling changes, new costs, revisions to calculations or any other changes without first providing at least 30-days advance notice to parties and a full explanation in its direct case.

The most important change would be to eliminate the final updates. Currently, PacifiCorp can include new contracts and updated contracts in the final update filed in November. Docket No. UE 199, Order No. 09-274, Appendix A at 10. The final updates have been one of the most controversial aspects of the TAM proceeding as they provide Staff and intervenors very little time to review entirely new contracts and significant changes to existing contracts. ICNU/100, Deen/20-21. While ICNU has identified and convinced the Company to remove certain costs that were inappropriately included in the last two final updates, ICNU has not been able to resolve all disputes related to the final updates. Id.; ICNU/102, Deen/2 (changes to final updates). Since "the parties do not have an adequate opportunity to conduct discovery or review the final updates, there should not be a final update that sets power costs." ICNU/100, Deen/21. ICNU and CUB also believe that the final updates are illegal as they allow the Company to update its costs and include new evidence in the record without providing a reasonable opportunity for other parties to examine, rebut, and respond to the new evidence. ORS § 756.558(1). Elimination of the final updates will also moot the need to revise the expedited, complex, cumbersome and inadequate process for reviewing the Company's final updates. Docket No. UE 216, Order No. 10-363 at 5-6; Docket No. UE 227, Order No. 11-516 at 1-2. ICNU and CUB are not aware of PacifiCorp contesting the recommendation to eliminate the final update, and the Company should not be allowed to develop new arguments on this issue for the first time in its final brief.

IV. CONCLUSION

ICNU and CUB recommend that the Commission prevent PacifiCorp from seeking to completely upend the Oregon regulatory process by adopting an automatic pass through mechanism and a transmission tariff rider that allows the Company to shift all net power cost risk to ratepayers, and avoid the principles of regulatory lag for both net power costs and transmission investments. Oregon ratepayers should be protected and net power costs will be lower if PacifiCorp remains responsible for ordinary power cost fluctuations and continues to have strong incentives to manage its power cost risks. Similarly, there is no reason to allow PacifiCorp to obtain early approval of the costs of the Mona-to-Oquirrh transmission line that was built in and for Utah customers, especially when the overall costs have not be verified. Finally, the Commission should eliminate or revise the TAM so that there are no longer any annual power cost updates for cost-of-service customers, or at a minimum, modify the most egregious and harmful aspects of the current TAM process.

Dated this 4th day of October, 2012.

Respectfully submitted,

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