

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 264

In the Matter of PACIFICORP, dba)	WAL-MART STORES, INC.'S
PACIFIC POWER,)	RESPONSE BRIEF
)	
2014 Transition Adjustment Mechanism)	
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)	
)	
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I. INTRODUCTION

Pursuant to Administrative Law Judge Pines' August 23, 2013 Ruling establishing a briefing schedule, Wal-Mart Stores, Inc. ("Walmart") hereby submits its Response Brief to the Public Utility Commission of Oregon ("OPUC").

Walmart maintains that the OPUC should find that PacifiCorp's current methodology for calculating Schedule 294 and 295 transition adjustments is flawed and effectively prevents the establishment of a competitive marketplace for direct access customers within PacifiCorp's service territory. In order to minimize barriers to a competitive marketplace, Walmart strongly believes that an alternative calculation methodology is required. In light of UE 267, PacifiCorp's Five-Year Cost of Service Opt-Out docket, Walmart requests that the OPUC direct PacifiCorp to initiate a workshop process for developing a more accurate transition adjustment calculation methodology in conjunction with UE 267. Alternatively, if the OPUC chooses not to order a workshop process, Walmart strongly supports the proposals set forth by Noble Americas Energy

Solutions LLC (“Noble Solutions”) to revise the transition adjustment calculation methodology and asks that the OPUC adopt Noble Solutions’ proposals.¹

II. ARGUMENT

A. *The OPUC Should Reject PacificCorp’s Request to Continue Using GRID to Calculate Transition Charges.*

PacifiCorp’s GRID fails to accurately calculate the market value of freed-up energy resulting from direct access load leaving PacifiCorp’s system.² Specifically, the GRID model underestimates the market value of the freed-up energy, resulting in transition charges that present an economic barrier to customers considering taking direct access service.³ Accordingly, the OPUC should order PacifiCorp to adopt an alternative methodology through a workshop process or adopt Noble Solutions’ proposal to utilize market prices alone.

1. *PacifiCorp’s Use of GRID Has Resulted in a Failed Direct Access Program.*

PacifiCorp’s use of the GRID methodology has resulted in a near complete lack of participation in PacifiCorp’s direct access program. The direct access participation rate for PacifiCorp customers is a clear example of this. According to the July 2012, Oregon Electric Industry Restructuring Status Report, only **1.4** percent of non-residential customer load was receiving generation service through direct access at that time.⁴ As a point of comparison, in mid-2012 in the restructured Texas market, almost 70 percent of commercial customers and over 70 percent of industrial customers were served by a non-affiliated retail electric service

¹ See Reply Testimony of Kevin C. Higgins on Behalf of Noble Americas Energy Solutions, LLC, Noble Solutions/100; Noble Americas Energy Solutions LLC’s Pre-Hearing Memorandum.

² Noble Solutions/100, Higgins/10-11.

³ *Id.*

⁴ Oregon Public Utility Commission, Status Report: Oregon Electric Industry Restructuring (July 2012), available at http://www.oregon.gov/puc/electric_restruc/statrpt/2012/072012_status_report.pdf.

provider.⁵ As another point of comparison, 10.7 percent of Portland General Electric's ("PGE") non-residential customer load took direct access service during the same period.⁶

Furthermore, the OPUC has long been aware of the barriers that PacifiCorp's transition adjustment methodology presents to direct access customers.⁷ In Order No. 04-516, the OPUC acknowledged the complete lack of direct access participation within PacifiCorp's service territory and noted that "PacifiCorp's transition adjustment methodology has long been suspected to hinder the economic viability of direct access in the Company's service territory."⁸ Little has changed since the OPUC issued its Order No. 04-516, PacifiCorp's direct access program is nearly non-existent, especially when compared to PGE's direct access program.

2. The OPUC Should Order PacifiCorp to Implement an Alternative Transition Charge Calculation Methodology.

In order to remedy the flawed transition charge calculation methodology currently in place, Walmart respectfully requests that the OPUC order one of two alternative solutions. First, in conjunction with UE 267, Walmart believes a workshop process could be an effective method for interested parties to develop an effective GRID alternative. A workshop process would serve to resolve the issue of transition charge calculation issue in this docket as well as ensure that PacifiCorp's Five-Year Cost of Service Opt-Out will be a realistic and effective mechanism.

Second, if the OPUC chooses not to order a workshop process, Walmart strongly recommends that the OPUC adopt the recommendations put forth by Noble Solutions.⁹ Walmart agrees with Noble Solutions' proposal to use actual market prices in calculating transition

⁵ Walmart/100, Chriss/3; See Report to the 83rd Texas Legislature: Scope of Competition in Electric Markets in Texas, January, 2013, page 20, available at http://www.puc.texas.gov/industry/electric/reports/scope/2013/2013scope_elec.pdf.

⁶ *Supra* n. 4.

⁷ See *In the Matter of Public Utility Commission Staff Investigation into Direct Access Issues for Industrial and Commercial Customers Under SB 1149*, Docket No. UM 1081, Order No. 04-516 at 9 (Sept. 14, 2004).

⁸ *Id.*

⁹ See Reply Testimony of Kevin C. Higgins on Behalf of Noble Americas Energy Solutions, LLC, Noble Solutions/100; Noble Americas Energy Solutions LLC's Pre-Hearing Memorandum.

charges and strongly believes Noble Solutions' proposals will be effective in creating a functional competitive marketplace within PacifiCorp's service territory.

III. CONCLUSION

Based on the foregoing, Walmart respectfully requests that the OPUC order PacifiCorp to institute a workshop process in conjunction with UE 267 in order to develop a comprehensive, effective solution to the PacifiCorp's flaw transition adjustment calculation methodology. In the event the OPUC finds that a workshop process is not warranted, Walmart supports the proposals set forth by Noble Solutions and asks that the OPUC adopt Noble Solutions' proposals.

DATED: September 18, 2013

Respectfully submitted,

HUTCHINSON, COX, COONS,
ORR & SHERLOCK, P.C.



Samuel L. Roberts
OSB No. 115034
PO Box 10886
Eugene, OR 97440
sroberts@eugenelaw.com
(541) 686-9160
(541) 343-8693 (Fax)

Of Attorneys for Wal-Mart Stores, Inc.

CERTIFICATE OF SERVICE
OPUC Docket No. UE 264

I hereby certify that I caused to be served the foregoing **WALMART STORES, INC.'S RESPONSE BRIEF**, via electronic mail and, where paper service is not waived, via postage-paid First Class Mail upon the following parties of record:

Citizens' Utility Board of Oregon 610 SW Broadway, Ste 400 Portland, OR 97205 dockets@oregoncub.org	Robert Jenks Citizens' Utility Board of Oregon 610 SW Broadway, Ste 400 Portland, OR 97205 bob@oregoncub.org
G. Catriona McCracken Citizens' Utility Board of Oregon 610 SW Broadway, Ste 400 Portland, OR 97205 catriona@oregoncub.org	Irion A. Sanger Davison Van Cleve PC 333 SW Taylor – Ste 400 Portland, OR 97204 ias@dvclaw.com
Melinda J. Davison Davison Van Cleve PC 333 SW Taylor – Ste 400 Portland, OR 97204 mjd@dvclaw.com	Kevin Higgins Energy Strategies LLC 215 State Street, Suite 200 Salt Lake City, UT 84111-2322 khiggins@energystrat.com
Katherine A. McDowell McDowell Rackner & Gibson, PC 419 SW 11th Avenue, Suite 400 Portland, OR 97205 katherine@mcd-law.com	Noble Americas Energy Solutions LLC Greg Bass 401 West A Street, Suite 500 San Diego, CA 92101 gbass@noblesolutions.com
Sarah Wallace Pacific Power 825 NE Multnomah Street, Ste. 1800 Portland, OR 97232 sarah.wallace@pacificorp.com	Oregon Dockets PacifiCorp dba Pacific Power 825 NE Multnomah Street, Ste. 2000 Portland, OR 97232 oregondockets@pacificorp.com
Douglas C. Tingey Portland General Electric 121 SW Salmon Street – 1WTC13 Portland, OR 97204 doug.tingey@pgn.com	Jay Tinker Portland General Electric 121 SW Salmon Street – 1WTC-0702 Portland, OR 97204 pge.opuc.filings@pgn.com

John Crider Public Utility Commission of Oregon PO Box 2148 Salem, OR 97308-2148 John.crider@state.or.us	Michael T. Weirich PUC Staff—Department of Justice Business Activities Section 1162 Court Street NE Salem, OR 97301-4096 Michael.weirich@state.or.us
Donald W. Schoenbeck Regulatory & Cogeneration Services Inc 900 Washington Street, Ste. 780 Vancouver, WA 98660-3455 dws@r-c-s-inc.com	Gregory M. Adams Richardson Adams, PLLC PO Box 7218 Boise, ID 83702 greg@richardsonadams.com
Lissa Maldonado Safeway, Inc. 5918 Stoneridge Mall Road Pleasanton, CA 94588-3229 Lissa.maldonado@safeway.com	George Waidelich Safeway, Inc. 5918 Stoneridge Mall Road Pleasanton, CA 94588-3229 George.waidelich@safeway.com

DATED this 18th day of September, 2013.

HUTCHINSON, COX, COONS,
ORR & SHERLOCK, P.C.

/S/ Samuel L. Roberts

Samuel L. Roberts
OSB No. 115034
PO Box 10886
Eugene, OR 97440
sroberts@eugenelaw.com
(541) 686-9160
(541) 343-8693 (Fax)

Of Attorneys for Wal-Mart Stores, Inc.