ELLEN F. ROSENBLUM
Attorney General

MARY H. WILLIAMS
Deputy Attorney General

**DEPARTMENT OF JUSTICE**
GENERAL COUNSEL DIVISION

August 12, 2013

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Oregon Public Utility Commission
PO Box 2148
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Re: *In the Matter of PACIFICORP, dba Pacific Power, 2014 Transition Adjustment Mechanism*
Docket No.: UE 264
DOJ File No.: 860115-GB0409-13

Enclosed are an original and copy of Staff's Prehearing Brief in the above-captioned matter for filing with the PUC today.

Sincerely,

Mike

Michael T. Weirich
Assistant Attorney General
Business Activities Section

MTW:mme/4485954
Enclosure
c: UE 264 Service List

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 264

| | |
|---|---|
| In the Matter of<br>PACIFICORP, dba PACIFIC POWER,<br>2014 Transition Adjustment Mechanism | STAFF'S PREHEARING BRIEF |

## 1. INTRODUCTION

Staff of the Public Utility Commission of Oregon (Staff) submits this prehearing brief consistent with the schedule established in this proceeding. On March 1, 2013, PacifiCorp (PacifiCorp or Company) filed tariff pages, and supporting Direct Testimony, to update its net power costs for 2014 and to set transition credits for its Oregon customers who choose direct access in the November open enrollment window. Subsequently, on June 4, 2013, Staff, the Citizens' Utility Board of Oregon (CUB), the Industrial Customers of Northwest Utilities (ICNU), Wal-Mart Stores, Inc. (Wal-Mart) and Noble Americas Energy Solutions, LLC (Noble Solutions) filed their respective Opening Testimonies. PacifiCorp then filed its Reply Testimony on July 15, 2013.

Staff's prehearing brief will briefly explain the legal standard governing the disputed issues in this docket. Staff will then address the four issues which staff raised in its Opening Testimony: (1) increase in coal costs; (2) effect of interruptible power contracts; (3) hydro modeling changes; and (4) wind modeling changes. Staff's prehearing brief will address these issues in the order listed.

## 2. STANDARD OF REVIEW

PacifiCorp filed tariff sheets seeking to update its net power costs and to set transition credits. Accordingly, the proceeding to review and analyze PacifiCorp's filing is generally governed by ORS 757.205 *et. seq*. Under ORS 757.210(1)(a), PacifiCorp bears the "burden of proof" to show that its proposals are fair, just and reasonable. *See also* ORS 756.040(1). The



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Commission has issued a series of orders that clarify the burden of proof concept as it is applied to this case.

In its Order No. 01-777, the Commission stated that the utility has the burden to show, by a preponderance of the evidence, that its proposed changes are just and reasonable. The Commission further declared that "if [the utility] fails to meet that burden, either because the opposing party presented compelling evidence in opposition to the proposal, or because [the utility] failed to present compelling information in the first place, the [the utility] does not prevail." Order No. 01-777 at 6.

Later, in its Order No. 09-046, the Commission clarified that the burden of proof concept involves both the "burden of persuasion" and the "burden of production." These aspects were described as follows:

> The burden of persuasion…is always with the utility. The ultimate burden of producing enough evidence to support its claims is also with the utility. Other parties in the case, however, have the burden of producing evidence to support their argument in opposition to the utility's position.

Order No. 09-046 at 7-8.

> The Commission most recently opined on the various burdens as follows: To reach a determination on whether proposed rates are just and reasonable, we look at the record as a whole and make a determination based on the preponderance of the evidence. Once a utility has met the initial burden of presenting evidence to support its request, "the burden of going forward then shifts to the party or parties who oppose including the costs in the utility's revenue requirement." Although the burden of production shifts, the burden of persuasion is always on the utility.

Order No. 11-432 at 3.

In summary, the Commission has firmly declared that the burden of persuasion and the burden of presenting sufficient supporting evidence remain with the utility throughout this type of proceeding. It is not Staff's or the intervening parties' role to show that the Company's proposals are unfair, unjust or unreasonable. Rather, it is PacifiCorp's burden to carry its burden of proving its proposals are fair, just, and reasonable.



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## 3. STAFF'S PROPOSED ADJUSTMENTS

In its Opening Testimony, Staff addressed four aspects about PacifiCorp's proposals. The chart below visually summarizes Staff's proposed adjustments. Column 1 states the issue and Column 2 sets forth the current status of the issue and, where appropriate, states the monetary impact of the adjustment.

| Issues | Oregon Allocated Decrease (-) in NPC ($ Million) |
|---|---|
| (1) | (2) |
| (A) Coal Cost Adjustment | -$0.46[1] |
| (B) Effect of Interruptible Power Contracts/TAM Guidelines Exception | Resolved: the Company accepted Staff's and CUB's proposed adjustment |
| (C) Hydro Modeling Changes/Normalization of Hydro Conditions | Resolved: Staff's proposed adjustment now resolved. However, PacifiCorp should work with interested parties to further explain its Hydro Modeling prior to the 2015 TAM |
| (D) Wind Modeling/Use of One Year Historical Data | -$1.10,[2] and PacifiCorp should work with parties to address this issue before the 2015 TAM |

### A. *Coal Cost Adjustment*

In its Opening Testimony, Staff proposed a reduction of approximately $500,000[3, 4] on an Oregon allocated basis for Operation and Maintenance (O&M) expenses, including management overtime (100%) and incentive pay (50%). In a subsequent data request, Staff asked the Company to calculate the impact of the O&M adjustment on the unit price of coal delivered to the Bridger plant, and to use the adjusted coal cost to recalculate the test year net power cost. The Company performed the requested calculations which resulted in an adjustment of approximately

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[1] *See* PacifiCorp response to Staff Data Request 10.
[2] *See* PAC/500, Duvall/12, lines 9-10.
[3] *See* Joint Staff/100 Crider-Ordonez/7, Line 22 to Crider-Ordonez/8, Line 2.
[4] See PacifiCorp's Reply Testimony, Exhibit PAC/600, Crane/13, line 19.



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$460,000 on an Oregon basis.[5] Staff has verified the Company calculations and accepts the adjustment.

Staff's proposed adjustment is based on the rationale that "[i]n previous dockets Staff has identified and [the] Commission has allowed rate-case type adjustments to certain O&M costs related to captive mines. Specifically, reductions in management overtime, bonuses, donations, fines and meal expenses have been allowed."[6]

In its Reply Testimony, the Company argues that "these cases do not support Staff's position, however, because none of them involve coal supply from affiliated mines."[7] Additionally, the Company described the types of employees that receive management and incentives and explained that such costs are seasonable.[8] The Company also disputed whether the Commission orders Staff relied upon are applicable to affiliated coal mines.

While it is true that the cases cited by staff do not involve affiliated mines, the principle stated in those cases nonetheless should apply to the present proceeding: Costs for meals and bonuses are viewed as discretionary and should be shared between the Company and its ratepayers.[9] Further, management overtime costs and fines should be absorbed by the Company.[10]

***B. Interruptible Contracts/TAM Guidelines Exception***

In its Direct Testimony, the Company stated it currently has contracts with three large industrial customers that allow it to curtail the customer's load for economic purposes or as non-spin reserve capacity. These contracts expire between 2013 and 2014, but the Company stated it

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[5] *See* Footnote 1. To explain further, the Staff adjustment for O&M costs resulted in a decrease in unit coal cost from $2.019/MMBtu to $2.010/MMBtu. Re-running the July update Grid model with the new coal price resulted in a system NPC adjustment of -$1.8m on a system basis. Applying the SE allocation factor yields the Oregon basis $0.46m.

[6] *See* Joint Staff/100 Crider-Ordonez/7-8.

[7] *See* PAC/600, Crane/14, Lines 2-4.

[8] *See* PAC/600, Crane/14-15.

[9] *See* Order Nos. 09-020 and 10-022.

[10] *See* Order Nos. 99-697 and 07-527.



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is actively working with customers to negotiate some of the contracts for 2014 and beyond. The Company also represented that the terms of the renegotiated contracts may differ from the original ones. In its Direct Testimony, the Company modeled these contracts with the current prices and terms. Finally, the Company proposed to update all aspects of the TAM impacted by changes to these large interruptible contracts, which would require a TAM Guidelines modification.[11]

In its Opening Testimony, Staff recommended the Commission not allow the Company's requested exception to the TAM guidelines because "[a]ny significant changes to the contracts may have unanticipated change to the modeling outcome and calculation of NPC. [Additionally], if introduced late in the proceedings, as proposed by the Company, parties will not be given the opportunity to perform proper discovery regarding this issue."[12] CUB also objected to PacifiCorp's proposal on similar grounds.[13]

In the its Reply Testimony, the Company represented that "[it] is willing to accept Staff's and CUB's position and forego further updates to these contracts in this case".[14] Staff appreciates the Company's willingness to work with the parties on this issue.

***C. Hydro Modeling/Normalization of Hydro Conditions***

In its Opening Testimony, Staff expressed its concern "that the Company's approach to hydro modeling does not reflect normalized hydro conditions [which] is a different methodological approach to estimating hydro generation that used by either Idaho Power or Portland General Electric (PGE) in their respective net power cost proceedings".[15] Staff further supported its position by "comparing 2012 TAM hydro projections with those for 2013, both Grant Priest Rapids and Grant Wanapum plants see changes of about 30-40% in production, year

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[11] *See generally* PAC/100, Duvall/12-14.
[12] *See* Joint Staff/100 Crider-Ordonez/9, line 21 to Crider-Ordonez/10, line 2.
[13] *See* CUB/100, Jenks-Hanhan/2-4.
[14] *See* PAC/500, Duvall/10, lines 15-17.
[15] *See* Joint Staff/100 Crider-Ordonez/11, lines 1-5.



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over year. Similarly, in comparing 2013 projections to 2014, Copco 1 and Copco 2 plants see monthly changes ranging from -35% to +50% in year over year changes."[16]

In the Company's Reply Testimony, it represented that "[f]or run of river plants (i.e., plants without storage capability), [such as the Copco 1 and Copco 2 plants] annual generation is set at the 30-year median generation..."[17] The Company also stated that "[t]he Lewis, Klamath [(where the Copco plants are located)], North Umpqua, and Mid-Columbia plants have storage capability, so annual hydro output is normalized using median inflows."[18]

Regarding the Grant Priest Rapids and Grant Wanapum plants, the Company explained that it receives a share of this project output depending on the load of Grant County Public Utility District's (Grand County PUD) load. The expected output of the project is updated periodically by Grand County PUD. Therefore, according to the Company, the year-over-year changes in output identified by Staff are the result of changes in Grand County PUD load rather than change in hydro conditions.[19]

Based upon the information provided in the Company's Reply Testimony, Staff accepts its position. As such, Staff no longer proposes an adjustment to PacifiCorp's Hydro Modeling. However, Staff recommends the Commission require PacifiCorp to organize workshops before the 2015 TAM to allow interested parties to better understand the Company's modeling assumptions.

***D. Wind Modeling/Use of One Year Historical Data***

In its Direct Testimony, the Company represented that "wind integration is included in GRID based on a 'P50' forecast. A P50 forecast projects generation at a level that is expected to have equal probability of being higher than forecast."[20] Additionally, PacifiCorp explained that

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[16] *See* Joint Staff/100 Crider-Ordonez/12, Lines 6-10.
[17] *See* PAC/500, Duvall/24, lines 22-23.
[18] *See* PAC/500, Duvall/25, lines 4-5.
[19] *See generally* PAC/500, Duvall/25-26.
[20] *See* PAC/100, Duvall/18, lines 3-5.



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it "used the Company's actual 2011 energy output date from its owned and purchased wind facilities to shape hourly wind generation profiles."[21]

In its Opening Testimony, Staff took no issue with the Company's use of a P50 forecast. However, Staff did not agree with PacifiCorp that the use of one year of actual data provided the needed accuracy for shaping purposes.[22] Staff reasoned that "[t]he use of a single year of data for introducing variability does not accurately reflect a normalized estimate of the wind since wind generation exhibits annual, seasonal, daily and hourly variability that is not necessarily highly correlated from year to year."[23] Accordingly, Staff recommended no change to the treatment of wind in the NPC modeling at this time. This issue was also addressed by ICNU and CUB, who agree with Staff's position.[24]

In the Company's Reply Testimony, it advocated for the use of a single year (i.e., 2011) for shaping purposes. PacifiCorp gave the following reasons for its position: "(1) 2011 was the first year that all of the Company's owned resources were online for a full year; (2) 2011 wind data was the basis for the 2012 Wind Integration Resource Study (Wind Study) used to determine the wind integration costs in this case; and (3) 2011 represents the most recent data available at the time of the filing."[25] The Company also cited to a technical report published by the National Renewable Energy Laboratory (NREL) that "[f]or even shorter-term variations, such as power level from one hour to the next, change of wind power levels become a stochastic process with a very narrow range of standard deviation value around its respective mean...when those mean and standard deviation values are expressed in terms of the installed capacity of the WPPs, they are almost constant on an annual basis...It can be concluded that short-term wind power fluctuations do not exhibit year-to-year variability."[26]

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21 *See* PAC/100, Duvall/18, lines 15-16.
22 *See* Joint Staff/100 Crider-Ordonez/13, lines 9-10.
23 *See* Joint Staff/100 Crider-Ordonez/13, lines 11-15.
24 *See* CUB/100, Jenks-Hanhan/5-6; ICNU/100, Deen/10-11.
25 *See* PAC/500, Duvall/15, lines 11-15.
26 *See* PAC/500, Duvall/16, lines 7-13.



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Staff recognizes the Company's argument that wind fluctuations from hour to hour, or shorter durations, exhibit a narrow range of change around the average. However, the TAM requires a normalized view of wind generation, so the issue is not how wind generation changes hour to hour on the same day, but how hourly data from one calendar date changes from year to year. In other words, it is the annual and multi-year fluctuations that are relevant when estimating a normalized wind. The Company's use of a single year of data provides no information about long term standard deviations around the mean.[27]

Staff also recognizes the unique power cost modeling question that wind generation poses. On the one hand, the TAM modeling effort demands a normalized view of generation, which in turn requires an averaging of years of data. This normalization process has the effect of smoothing data, meaning that the effect of extreme data points is diminished as more years of data are folded into the process. This is, in fact, the goal of the normalization process. On the other hand, the Company must estimate and plan for adequate reserve capacity to follow the *actual* daily fluctuations of the wind generators which will include these extreme cases. In fact, it is the extreme cases that drive the need for reserves, not the normalized data.[28]

Staff further notes that the NREL report referenced by the Company supports the persistence theory of wind forecasting – namely that wind generation in the immediate future (minutes ahead of present) has a high probability of remaining within a few percent of its value at present. In other words, although annual production might change considerably from year to year, the wind data studied does not show great variability on short time scales. This implies that the need for regulation reserve due to variability in wind generation may well be less than has been predicted in the past.[29]

Wind modeling for determining power cost is still in a state of development. Continuing study and workshops should be conducted to allow all parties to reach an agreement on the

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[27] *See* Joint Staff/100, Crider-Ordonez/13.
[28] *Id.*; *see also* CUB/100, Jenks-Hanhan/6; ICNU/100, Deen/10-11.
[29] *Id.*



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methodology. Consequently, Staff recommends the Commission order not adopt PacifiCorp's wind modeling approach. The consequence of this would be a reduction of $1.10 million in Oregon-allocated NPC.[30]

## 4. CONCLUSION

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

DATED this 12th day of August 2013.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

Michael T. Weirich, #82425
Assistant Attorney General
Of Attorneys for Staff of the Public Utility Commission of Oregon

[30] Although the Company does not agree with Staff's position, it represented that the effect of Staff's recommendation would reduce total-company NPC by approximately $4.6 million. *See* PAC/500, Duvall/12. Applying the Oregon allocation factor to the total-company figure results in a $1.1 million reduction. Staff notes that ICNU's calculated adjustment is $1.2 million. *See* ICNU/100, Deen/11.



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1162 Court Street NE
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(503) 947-4342 / Fax: (503) 378-3784

## CERTIFICATE OF SERVICE

I certify that on August 12, 2013, I served the foregoing STAFF'S PREHEARING BRIEF upon all parties of record in this proceeding by electronic mail only as all parties waive paper service.

W
**CITIZENS' UTILITY BOARD OF OR**
OPUC DOCKETS
610 SW BROADWAY, STE 400
PORTLAND OR 97205
dockets@oregoncub.org

ROBERT JENKS **(C)**
610 SW BROADWAY, STE 400
PORTLAND OR 97205
bob@oregoncub.org

G. CATRIONA MCCRACKEN **(C)**
610 SW BROADWAY, STE 400
PORTLAND OR 97205
catriona@oregoncub.org

W
**DAVISON VAN CLEVE**
IRION A SANGER
333 SW TAYLOR - STE 400
PORTLAND OR 97204
ias@dvclaw.com

W
**DAVISON VAN CLEVE PC**
MELINDA J DAVISON
333 SW TAYLOR - STE 400
PORTLAND OR 97204
mjd@dvclaw.com

W
**ENERGY STRATEGIES LLC**
KEVIN HIGGINS **(C)**
215 STATE ST - STE 200
SALT LAKE CITY UT 84111-2322
khiggins@energystrat.com

W
**HUTCHINSON COX COONS ET AL**
SAMUEL L ROBERTS
777 HIGH ST STE 200
PO BOX 10886EUGENE OR 97440
sroberts@eugenelaw.com

W
**MCDOWELL RACKNER & GIBSON PC**
KATHERINE A MCDOWELL
419 SW 11TH AVE., SUITE 400
PORTLAND OR 97205
katherine@mcd-law.com

W
**NOBLE AMERICAS ENERGY SOLUTIONS**
GREG BASS
401 WEST A ST - STE 500
SAN DIEGO CA 92101
gbass@noblesolutions.com

W
**PACIFIC POWER**
SARAH WALLACE
825 NE MULTNOMAH ST STE 1800
PORTLAND OR 97232
sarah.wallace@pacificorp.com

W
**PACIFICORP, DBA PACIFIC POWER**
OREGON DOCKETS
825 NE MULTNOMAH ST, STE 2000
PORTLAND OR 97232
oregondockets@pacificorp.com

W
**PORTLAND GENERAL ELECTRIC**
DOUGLAS C TINGEY
121 SW SALMON 1WTC13
PORTLAND OR 97204
doug.tingey@pgn.com

JAY TINKER
121 SW SALMON ST 1WTC-0702
PORTLAND OR 97204
pge.opuc.filings@pgn.com

W
**PUBLIC UTILITY COMMISSION OF OREGON**
JOHN CRIDER **(C)**
PO BOX 2148
SALEM OR 97308-2148
john.crider@state.or.us

W
**REGULATORY & COGENERATION SRVCS INC**
DONALD W SCHOENBECK
900 WASHINGTON ST STE 780
VANCOUVER WA 98660-3455
dws@r-c-s-inc.com

W
**RICHARDSON & O'LEARY**
GREGORY M. ADAMS **(C)**
PO BOX 7218
BOISE ID 83702
greg@richardsonandoleary.com

W
**SAFEWAY INC**
LISSA MALDONADO
5918 STONERIDGE MALL ROAD
PLEASANTON CA 94588-3229
lissa.maldonado@safeway.com

GEORGE WAIDELICH
5918 STONERIDGE MALL RD
PLEASANTON OR 94588-3229
george.waidelich@safeway.com

W
**WAL-MART STORES INC.**
STEVE W CHRISS
2001 SE 10TH ST
BENTONVILLE AR 72716-0550
stephen.chriss@wal-mart.com

Melissa Eastlund

Melissa Eastlund
Legal Secretary
Department of Justice/General Counsel
Business Activities Section