

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **UM 1081**

4 In the Matter of an Investigation into Direct
5 Access Issues for Industrial and Commercial
6 Customers under SB 1149.

STAFF REPLY BRIEF

7 The Industrial Customers of Northwest Utilities (ICNU) argue that PacifiCorp's
8 operational response to reduced load from direct access, both short-term and long-term, supports
9 imposition of a transition adjustment incorporating ICNU's "market plus" proposal. Staff
10 disagrees. Staff also disagrees with ICNU's assertion that for purposes of determining an
11 appropriate transition adjustment, the value of PacifiCorp's resources should be determined from
12 the direct access customer perspective.

13 **Operational Response.**

14 Although ICNU acknowledges that PacifiCorp's short-term operational response will be
15 mixed, it asserts that at low levels of direct access participation, PacifiCorp will experience more
16 than twice as many avoided purchases than short-term increased sales. (ICNU Brief at 18.)
17 ICNU asserts that this operational response supports its proposed transition adjustment that in all
18 instances, is based on avoided purchased power costs plus avoided transmission costs. ICNU
19 also appears to suggest that to the extent its market plus proposal does not perfectly capture
20 PacifiCorp's operational response, it is still be the best option because it is the only proposal
21 before the Commission that will not create a barrier to direct access. (ICNU Brief at 20-23.)

22 The flaw in ICNU's argument is that it disregards the fact that PacifiCorp's operational
23 response will include reducing generation in addition to avoiding purchases and increasing sales.
24 Valuing reduced generation as though it is equivalent to reduced power purchases would
25 overstate the value and the transition adjustment.

1 The GRID runs included in Staff Exhibit 102 indicate that reduced generation and
2 increased sales are forecast to account for at least 58 percent of PacifiCorp's operational response
3 to direct access. The exhibit also indicates that PacifiCorp's advance short-term firm purchases
4 were excluded from the model runs. Including PacifiCorp's advance purchases in the GRID runs
5 would have increased the volume of sales or further reduced generation.

6 As Staff testified, the *totality* of PacifiCorp's likely operational response to direct access
7 suggests that a market-even approach is a less extreme proposal, and a better approximation of
8 PacifiCorp's operational response, than either a market-minus or market-plus approach, on an
9 interim basis.

10 Staff also disagrees with ICNU's assertion that its short-term proposal for a transition
11 adjustment is supported by PacifiCorp's long-term operational response, and other long-term
12 circumstances. ICNU argues that to the extent PacifiCorp may respond to lost load due to direct
13 access with a mixture of operational responses in the short-term, this will not be the case in the
14 long-term. ICNU argues that this is because PacifiCorp will be able to plan for the departed
15 load, and will therefore, be able to respond to the lost load almost exclusively with avoided
16 purchases. (ICNU Brief at 17.) This argument is not persuasive.

17 Assumptions regarding PacifiCorp's long-term operational response to direct access are
18 too speculative to be probative as to the correct transition adjustment in the short term. Staff has
19 recommended an extensive investigation into the best transition adjustment for the long-term. It
20 is in this future investigation that the Commission should examine the reasonableness of any
21 argument such as that raised by ICNU regarding PacifiCorp's planning for reduced load to direct
22 access.

23 Currently, there are too many unanswered questions regarding ICNU's assumption that
24 PacifiCorp will plan for departing direct access load for that assumption to be a pertinent factor
25 in whether the Commission adopts ICNU's market plus approach in the short term. Those
26 questions include, for example, whether it would be appropriate to shift costs of short-term

1 purchases that PacifiCorp may incur to make up for any shortfalls associated with an incorrect
2 assumption regarding departing load?

3 Finally, ICNU's argument that the Commission should adopt its market plus proposal
4 because this is the only proposal that will not create a barrier to direct access is not well taken for
5 the reasons discussed in Staff's Opening Brief.

6 **Perspective**

7 ICNU argues that the definition of economic utility investment is focused on the value of
8 the utility's resources from the perspective of the direct access customer, not the utility or its
9 remaining ratepayers. Based on its reading of ORS 757.600(10), ICNU argues that PacifiCorp's
10 transition adjustment should compensate the direct access customer for the benefits they no
11 longer receive because they have ceased purchasing electricity from PacifiCorp. (ICNU Brief at
12 11.) Again, ICNU's argument is untenable.

13 Contrary to ICNU's assertion, the definition of economic utility investment is focused on
14 the direct result, or impact, of direct access on the utility, the direct access customer, and the
15 remaining cost-of-service customers. The focus is on the shift in the distribution of the benefits
16 of economic utility investments. From the perspective of a direct access customer, the logic of
17 the definition is that absent a transition credit, the direct access customer will no longer receive
18 any of the benefits of economic utility investments. From the perspective of the utility and its
19 remaining customers, the logic is that absent a transition credit, the utility and the remaining
20 customers will receive all of the benefits of economic utility investments.

21 The definition of uneconomic utility investment is focused on the shift in the allocation of
22 the costs of uneconomic investments. (ORS 757.600(35).) From the perspective of the utility
23 and its remaining customers, the logic is that absent a transition charge, the utility and the
24 remaining customers will receive all of the costs of uneconomic utility investments.

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1 Contrary to ICNU's arguments, the Commission should not adopt the perspective of any
2 one participant in this case. The Commission should adopt a public interest perspective and
3 focus on the overall allocation of the benefits and costs of the company's investments.

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5 DATED this _____ day of August 2004.
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7 Respectfully submitted,

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