BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1081

In the Matter of an Investigation into Direct Access Issues for Industrial and Commercial Customers under SB 1149	**REPLY BRIEF OF PACIFICORP**

In reply to the opening briefs of Staff, ICNU and EPCOR, PacifiCorp respectfully submits the following comments.

I. Reply to Staff

1. This case is about setting a transition adjustment that strikes a balance between the interests of customers departing for direct access and those remaining on PacifiCorp's cost-of-service rate. Because Staff's opening brief gives voice to the latter customer group, a group that would otherwise go unheard in this docket, the Commission should accord added weight to Staff's comments.

2. In its opening brief, Staff points out that the Commission's mandate to remove barriers to competition is not synonymous with making direct access economic or attractive to customers. (Staff Opening Brief at 3-4.) PacifiCorp agrees with Staff's conclusion that the latter challenge is the responsibility of the market, not the Commission, and that the large, long-term subsidization contemplated by a market-plus proposal is ultimately counterproductive to the development of a sustainable direct access model. (*Id.* at 4.)

3. PacifiCorp has proposed a "safety valve" true-up mechanism to cover market movement or large load losses during the open enrollment window. Under this mechanism, PacifiCorp would sell the freed-up power and place the difference between the sale proceeds (net of any incremental transmission costs associated with the sale) and the transition adjustment in the SB 1149 implementation cost balancing account. Staff supports this true-up. (Staff Opening Brief at 6.)

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Staff does indicate that it would oppose a true-up "that captures an operational response that differed from the response assumed in the market-even approach." (*Id*.) PacifiCorp does not propose to use the true-up in this manner. To clarify, PacifiCorp proposes to set the transition adjustment in all cases based on a market-even approach. The true-up is a risk management provision to be used in limited circumstances with the market-even approach and is not itself a separate transition adjustment methodology.

4. PacifiCorp and Staff have one remaining minor dispute: when PacifiCorp should make its GRID-based transition adjustment filing and whether the results should apply first to the potential Spring 2005 window or to the Fall 2005 window. If possible, PacifiCorp would like to consolidate its new transition adjustment filing with the next general rate case it intends to file in Oregon. A consolidated approach should permit a more effective use of Commission resources in processing the filings. PacifiCorp cannot complete a consolidated filing before November 15, 2004. PacifiCorp remains committed to the pre-filing workshop schedule set forth in its opening brief (initial workshops set on October 2, 2004 and October 22, 2004).

Staff recommends that the results of the GRID-based approach be used for all direct access enrollment windows after Fall 2004. (Staff Opening Brief at 1, 5.) PacifiCorp proposes to use the approach beginning in Fall 2005. A potential area of disagreement, therefore, is whether the GRID-based approach must be developed in time for use in a Spring 2005 window if the Commission adopts a second annual window. Assuming a June 15 window, the transition adjustment methodology would need to be final 60 days prior or by April 15, only five months after the filing. Assuming Commission deliberations of 30 days, the case would have to be heard and briefed by March 15, only four months after the filing. Given the complexities involved, including the challenge of setting two transition adjustments in one year, PacifiCorp recommends use of the interim, market-even approach

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for a Spring 2005 window, rather than adoption of the rushed schedule required to produce a GRID-based methodology in a four-month timeframe.

II. Reply to ICNU

1. ICNU inaccurately describes the Staff/PacifiCorp market-even approach as a proposal "to base the Transition Adjustment on increased sales." (ICNU Opening Brief at 25; *see also* 7.) As explained in Staff's Opening Brief at 6, the market-even approach assumes a mixed response of increased sales and avoided purchases.

2. In the face of PacifiCorp's IRP update indicating that it is in load/resource balance in Oregon through 2006, ICNU appears to have abandoned the theory that an avoided purchase model is reasonable because PacifiCorp is reliant on the market for some portion of its load. Instead, ICNU now supports its market-plus theory on the basis that the GRID run results in Staff Exhibit 102 demonstrate that avoided purchases outweigh increased sales in response to various load loss scenarios. (ICNU Opening Brief at 7, 14-19.)

Stepping back to look at the GRID results in total, they do not support a theory that PacifiCorp will respond to direct access load loss with avoided purchases in all instances. Indeed, ICNU and EPCOR's witnesses both admitted in cross-examination that reduced generation and increased sales outweigh avoided purchases by approximately 2 to 1 in the GRID run results. (Tr. 112; 123.) Including reduced generation in the transition adjustment equation substantially lowers the value of freed-up load because PacifiCorp's embedded costs are below market, undermining the reasonableness of a market-plus approach. (PPL/300, Widmer/3.) The GRID results are more supportive of a market-even approach than a market-plus approach.

3. The interim transition adjustment at issue here is anticipated to be in place for one year. ICNU generally ignores this fact and makes several arguments involving long-term issues that are inapplicable. For example:

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> "The Company and Staff point out that the GRID model demonstrates that in the short-term, PacifiCorp will experience a mixed reaction to direct access load loss and not only avoided purchases. However, in the long-term, PacifiCorp and Staff's criticism is without merit. The Company should plan for some load to elect direct access. In that case, the Company would [not] need to acquire resources to serve its load taking service from ESSs and should face avoided purchases for this load." (ICNU Opening Brief at 17; citations omitted).

PacifiCorp disagrees with ICNU's suggestion that PacifiCorp should make resource decisions around assumed direct access load loss before it materializes, especially because customers hold the option to return to cost-of-service at any time. PacifiCorp also disagrees with ICNU that the Commission should design a temporary transition adjustment to fit a mature direct access market. (ICNU Opening Brief at 25.) Indeed, the predicate for the changes that PacifiCorp has proposed to the transition adjustment is the fact that direct access participation is lower than anticipated when PacifiCorp's current transition adjustment was designed. (*See, e.g.*, PPL/101, Omohundro/3; PPL/205, Apperson/5.)

4. Another example of ICNU's inability to keep its arguments about the interim transition adjustment in the correct short-term context is ICNU's assertion that the Staff/PacifiCorp market-even interim transition adjustment is a barrier to direct access. (ICNU Opening Brief at 20-23.) While ICNU asserts broadly that a market-plus option is required for customers to have a viable option to take service from an ESS, ICNU omits to mention that its members already have a subsidized, market-plus option in the Kick-Start program. The offerings under the Kick-Start program span the full time period of the interim transition adjustment's contemplated use. The suggestion that the Commission must adopt a market-plus transition adjustment here to permit direct access to succeed leaves out the very important detail of the Kick-Start program's existence during the interim transition adjustment period.

5. One of the mandates of SB 1149's preamble is to craft direct access in "a way that retains the benefits of low-cost resources for consumers." Among the low-cost resources

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that PacifiCorp now owns are its legacy FPT contracts with BPA. ICNU argues that the PacifiCorp/Staff transition adjustment fails to provide any value for the FPT capacity freed up by direct access load loss. (ICNU Opening Brief at 12-14.) The theory of the market-even approach, however, is that the potential value of freed-up transmission capacity is roughly equal and offsetting to the potential costs of transmission associated with increased sales. Thus, the market-even transition adjustment does acknowledge the potential value of the freed-up transmission by using this value as a complete offset to the incremental transmission costs reflected in PacifiCorp's current transition adjustment.

6. Under ICNU's market-plus approach, direct access customers would get a credit for PTP transmission from Mid-C to the PacifiCorp border for all direct access load loss, even though direct access will actually result in the freeing-up of some lesser percentage of cheaper and generally unmarketable FPT capacity. ICNU claims that its market-plus approach is nonetheless justified because the value of the freed-up transmission should be measured from the customers' perspective, rather than from the utility's. (ICNU Opening Brief at 14.)

This subjective approach to ongoing valuation is inconsistent with the Commission's rules which require an objective, mark-to-market approach, presumably to be fair to all customers. *See* OAR 860-0380-0140(1). Under an objective approach, PacifiCorp's freed-up FPT capacity is not a "freed-up resource" in the sense that it has an ascertainable market value. This capacity cannot be assigned or resold. (Tr. 77.) PacifiCorp's FPT is a long-term fixed cost which PacifiCorp maintains to economically serve its cost-of-service customers, including those who have the option to return from direct access. It is a cost that cannot be avoided by the temporary loss of certain load. (Tr. 78.) Additionally, contrary to ICNU's assertions, PacifiCorp purchases almost no incremental, short-term transmission to serve its Oregon retail load, so FPT capacity freed up by direct access load loss does not permit the Company to avoid other transmission purchases. (Tr. 71.) For all of these reasons, the

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impact of giving direct access customers a credit for PTP transmission from Mid-C to the PacifiCorp border is a significant cost shift from departing customers to remaining customers.

7. ICNU asserts that PacifiCorp has waived its claim to incremental transmission costs in its proposed transition adjustment, while reserving its right to collect these costs later. (ICNU Opening Brief at 6; 19-20). As PacifiCorp clarified above, the "safety valve" true-up is not a part of the transition adjustment methodology, but is rather a separate risk management tool. PacifiCorp will not normally collect any transmission costs associated with increased sales. The only exception is when PacifiCorp uses the true-up mechanism in the limited circumstances outlined above, actually incurs incremental transmission costs, and nets the proceeds of the sale against these costs.

8. In PacifiCorp's Opening Brief, PacifiCorp noted that Staff, PacifiCorp and ICNU all agreed that PacifiCorp should develop and file a GRID-based transition adjustment methodology. (PacifiCorp Opening Brief at 1.) Based upon ICNU's Opening Brief, however, it appears that ICNU may no longer support a GRID-based approach, a divergence from the PacifiCorp and Staff positions. (ICNU Opening Brief at 14.) ICNU does, however, continue to support the development of a longer-term transition adjustment model. (*Id.*)

9. ICNU argues that the GRID results support its position that the forward price curve should be measured at the average of four trading hubs used to balance the PacifiCorp system. (ICNU Opening Brief at 27.) While it is true that GRID shows sales and purchases at hubs other than Mid-C, it is also true that GRID shows that these sales and purchases are made in anything but the pattern of a simple average involving four specific trading hubs. (Staff/102.) As Staff and PacifiCorp both noted in their opening briefs, a GRID-based approach will incorporate multiple trading hubs. It is premature to import this concept in a rough and inaccurate form to the interim methodology.

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III. Reply to EPCOR

1. Throughout its brief, EPCOR asserts that PacifiCorp is inconsistent in arguing that it cannot utilize FPT capacity from Mid-C to the PacifiCorp border freed-up by direct access, but might incur incremental transmission costs associated with a sale under its "safety valve" true-up mechanism. (EPCOR Opening Brief at 1; 12.) There is no inconsistency. Transmission is uni-directional, meaning that PacifiCorp cannot take freed-up transmission capacity from Mid-C to PacifiCorp and use it to avoid transmission costs going the other direction, from PacifiCorp to Mid-C.

2. EPCOR argues that PacifiCorp could realize value for its freed-up FPT capacity by entering into arrangements to buy power at Mid-C and sell it at the PacifiCorp border. (EPCOR Opening Brief at 2, 14.) While a buy/sell arrangement is theoretically possible, it is unlikely that any value for FPT could be captured by such an arrangement. A successful buy/sell arrangement requires market liquidity and the market at PacifiCorp's border is illiquid.

EPCOR's suggestion that the Commission force buy/sell arrangements between PacifiCorp and the ESSs raises complex questions about BPA's willingness to permit this kind of arrangement and state and federal jurisdiction conflicts. A requirement that PacifiCorp purchase and wheel power for ESSs to supply to PacifiCorp customers seems antithetical to the free market development intended by SB 1149. Moreover, the costs of managing these arrangements would likely swamp the FPT value derived from them, resulting in a cost shift to remaining customers. In UE 116, the Commission's concerns about cost shifts led them to reject ICNU's much less drastic proposal that would have required PacifiCorp simply to wheel power for ESSs. Order 01-846 (Oct 1, 2001).

3. As noted above, PacifiCorp's FPT contracts are fixed, long-term costs that PacifiCorp must incur to continue to serve its cost-of-service customers, including those who go to direct access but have a call option to return. In support of its market-plus approach,

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EPCOR argues that PacifiCorp should sell its FPT capacity freed-up by direct access and serve the returning customers with incremental purchases of PTP transmission. (EPCOR's Opening Brief at 22.) EPCOR's suggestion cuts against SB 1149's mandate to preserve low cost resources for consumers. PTP is more expensive than FPT and is limited to one point of delivery, unlike FPT. (Tr. 76-77.) The impact of EPCOR's suggestion would be to increase cost-of-service rates for all customers.

IV. Conclusion

For all of the foregoing reasons, PacifiCorp respectfully requests that the Commission adopt PacifiCorp's proposal for filing a GRID-based approach to the transition adjustment on November 15, 2004, and adopt an interim transition adjustment that is based on a market-even approach using Mid-C forward prices.

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