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June 14, 2013

Public Utility Commission
Attn: Filing Center
550 Capitol Street NE #215
PO Box 2148
Salem, OR 97308

Re: UE 262 – Noble Americas Energy Solutions LLC's Reply Testimony

Dear Filing Center:

Enclosed please find Noble Americas Energy Solutions LLC's Reply Testimony for filing in the above-referenced docket. We are providing the Commission with an original and five copies of this filing.

Please contact me with any questions. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Adams", with a long horizontal line extending to the right.

Gregory M. Adams
Attorney for Noble Americas Energy Solutions LLC

cc: UE 262 Service List

**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

In the Matter of Portland General)	
Electric Company,)	Docket No. UE-262
Request for a General Rate)	
Revision)	

Reply Testimony of Kevin C. Higgins

on behalf of

Noble Americas Energy Solutions LLC

June 14, 2013

REPLY TESTIMONY OF KEVIN C. HIGGINS

Introduction

Q. Please state your name and business address.

A. Kevin C. Higgins, 215 South State Street, Suite 200, Salt Lake City, Utah,
84111.

Q. By whom are you employed and in what capacity?

A. I am a Principal in the firm of Energy Strategies, LLC. Energy Strategies
is a private consulting firm specializing in economic and policy analysis
applicable to energy production, transportation, and consumption.

Q. On whose behalf are you testifying in this phase of the proceeding?

A. My testimony is being sponsored by Noble Americas Energy Solutions
LLC (“Noble Solutions”), formerly Sempra Energy Solutions LLC. Noble
Solutions is a retail energy supplier that serves commercial and industrial end-use
customers in 16 states, the District of Columbia, and Baja California, Mexico.
Noble Solutions serves more than 15,000 retail customer sites nationwide, with an
aggregate load in excess of 4,500 MW. Noble Solutions’ retail customers are
located in the service territories of 55 utilities. In Oregon, Noble Solutions is
currently serving customers in Portland General Electric’s service territory and
PacifiCorp’s territory.

Q. Please describe your professional experience and qualifications.

A. My academic background is in economics, and I have completed all
coursework and field examinations toward a Ph.D. in Economics at the University

1 of Utah. In addition, I have served on the adjunct faculties of both the University
2 of Utah and Westminster College, where I taught undergraduate and graduate
3 courses in economics. I joined Energy Strategies in 1995, where I assist private
4 and public sector clients in the areas of energy-related economic and policy
5 analysis, including evaluation of electric and gas utility rate matters.

6 Prior to joining Energy Strategies, I held policy positions in state and local
7 government. From 1983 to 1990, I was economist, then assistant director, for the
8 Utah Energy Office, where I helped develop and implement state energy policy.
9 From 1991 to 1994, I was chief of staff to the chairman of the Salt Lake County
10 Commission, where I was responsible for development and implementation of a
11 broad spectrum of public policy at the local government level.

12 **Q. Have you ever testified before this Commission?**

13 A. Yes. I have testified in over a dozen prior proceedings in Oregon,
14 including the six previous PacifiCorp Transition Adjustment Mechanism
15 (“TAM”) cases, UE-264 (2014 TAM), UE-245 (2013 TAM), UE-227 (2012
16 TAM), UE-216 (2011 TAM), UE-207 (2010 TAM), and UE-199 (2009 TAM). I
17 have also participated in four PacifiCorp general rate cases, UE-210 (2009), UE-
18 179 (2006), UE-170 (2005), and UE-147 (2003). In addition, I have testified in
19 three Portland General Electric (“PGE”) general rate cases, UE-215 (2010), UE-
20 197 (2008) and UE-180 (2006), as well as in the PGE restructuring proceeding,
21 UE-115 (2001).

22 **Q. Have you participated in any workshop processes sponsored by this**
23 **Commission?**

1 A. Yes. In 2003, I was an active participant on behalf of Fred Meyer Stores
2 in the collaborative process initiated by the Commission to examine direct access
3 issues in Oregon, UM-1081. More recently, in 2012, I participated in drafting
4 comments on behalf of Noble Solutions as part of UM-1587, the Commission's
5 investigation of issues relating to direct access.

6 **Q. Have you testified before utility regulatory commissions in other states?**

7 A. Yes. I have testified in approximately 165 proceedings on the subjects of
8 utility rates and regulatory policy before state utility regulators in Alaska,
9 Arizona, Arkansas, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky,
10 Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, New York,
11 North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Utah,
12 Virginia, Washington, West Virginia, and Wyoming. I have also prepared
13 affidavits that have been filed with the Federal Energy Regulatory Commission.

14

15 **Overview and Conclusions**

16 **Q. What is the purpose of your testimony in this proceeding?**

17 A. My testimony addresses the treatment of franchise fees for direct access
18 customers.

19 **Q. What are the conclusions and recommendations in your testimony?**

20 A. Noble Solutions appreciates the Commission's efforts in Order 12-500 to
21 address the economic disincentives to direct access service under the current
22 franchise fee recovery mechanism. PGE's proposed approach for treating
23 franchise fees for direct access customers is reasonably consistent with the

Commission's directive in that order. Although PGE's proposed approach is a marked improvement over the status quo, some pricing distortions regarding the treatment of franchise fees and the economics of direct access will remain under the new approach. This concern notwithstanding, Noble Solutions is not recommending any change to PGE's proposed treatment at this time. If, after working under PGE's proposed approach over the course of the next few years, Noble Solutions determines that the treatment of franchise fees for direct access customers continues to cause undue pricing disincentives in the selection process customers use to determine the value proposition of direct access service, Noble Solutions will raise that issue in an appropriate venue at a later date.

Treatment of Franchise Fees for Direct Access Customers

Q. What recent guidance has the Commission issued regarding the treatment of franchise fees for direct access customers?

A. In Order 12-500, issued in UM-1587, the Commission addressed the problem of disincentives to direct access service under the current franchise fee recovery mechanism, whereby direct access customers are charged on a volumetric basis for system franchise fee costs, but would be potentially subject to additional franchise fees from cities upon electing direct access service. The Commission found as follows:

We take at face value the Cities' claim that they have the legal authority to make up their lost revenue from lower franchise fees by imposing a tax directly on ESSs serving loads within municipal boundaries. While that approach makes the cities whole, it might create a disincentive for customers to elect direct access.

1 Given the expectation that the cities will look after themselves, the disincentive
2 to direct access can be addressed by unbundling all franchise fees collected by
3 each utility and recovering those costs through a variable charge that is avoided
4 by a direct access customer. We direct PGE and Pacific Power to work with
5 interested parties to calculate the appropriate franchise fee rate element in their
6 next respective general rate cases.

7
8 We note that the franchise fee rate element may not match exactly the in lieu tax
9 collected by the local government. We expect that the difference in these values
10 will be *de minimis* in terms of whether a customer will choose direct access.
11

12 **Q. What has PGE proposed regarding the treatment of franchise fees for direct**
13 **access customers in light of Order 12-500?**

14 A. PGE's proposed approach is discussed in the direct testimony of Marc
15 Cody and Robert Macfarlane. As explained by the witnesses:

16 We interpret OPUC Order 12-500 to specify that franchise fee revenue
17 requirements be unbundled and priced volumetrically such that direct access
18 customers are not attributed cost responsibility for the generation and
19 transmission functional categories. Thus, we allocated the franchise fee revenue
20 requirements by segregating the generation and transmission revenue
21 requirement test-period allocations from the other revenue requirement
22 allocations across the schedules and separately calculating the prices for each
23 category of allocations. Because direct access customers do not pay generation
24 and transmission charges to PGE, we calculate a franchise fee price differential
25 related to these charges and apply this differential to the direct access schedules.
26 This differential is captured in the system usage charges for each direct access
27 schedule. For direct access schedules that do not have a system usage charge,
28 we establish a price differential within the volumetric distribution charges.
29

30 **Q. Do you believe that PGE's approach is reasonably consistent with the**
31 **directive in Order 12-500?**

32 A. Yes, PGE's proposed approach for treating franchise fees for direct access
33 customers is reasonably consistent with the Commission's directive in Order 12-
34 500.

1 **Q. Does PGE's proposed approach remove all of the economic disincentives to**
2 **direct access service associated with the recovery of franchise fees?**

3 A. No. Franchise fees are recovered system-wide, irrespective of whether an
4 individual customer resides in a jurisdiction that levies a franchise fee.

5 Consequently, the average uplift cost associated with these fees across the PGE
6 system is about 2.5%. For a customer considering direct access service that is
7 located in a city levying a 3.5% franchise fee, PGE's proposed approach would
8 allow the customer to avoid its current 2.5% franchise fee contribution (associated
9 with generation and transmission service) if the customer chooses direct access,
10 but the customer would still be subjected to the higher 3.5% charge (on generation
11 and transmission service) from the city. Thus, an economic disincentive of
12 approximately 1% of generation and transmission costs remains for customers
13 selecting direct access that reside in franchise fee jurisdictions.

14 The opposite situation will be the case for customers located outside of
15 jurisdictions levying franchise fees. For these customers, PGE's proposed
16 approach would allow the customer to avoid its current 2.5% franchise fee
17 contribution (associated with generation and transmission service) while the
18 customer would not be subject to any franchise fee (on generation and
19 transmission service) from a city. Thus, an economic *incentive* of approximately
20 2.5% of generation and transmission costs is created for these customers to select
21 direct access.

22 **Q. What is your assessment of this situation?**

1 A. Ideally, the treatment of franchise fees should not produce any pricing
2 distortions with respect to a customer's election of direct access service.
3 Although additional adjustments could be undertaken to remove the remaining
4 pricing distortions in PGE's proposed approach, Noble Solutions is not
5 recommending any change to PGE's proposed treatment at this time. Noble
6 Solutions recognizes that PGE's proposed approach is a substantial improvement
7 over the status quo. Furthermore, Noble Solutions is highly appreciative of both
8 the Commission's efforts to address the disincentive problem in Order 12-500, as
9 well as PGE's straightforward proposal to implement the order in a constructive
10 and intuitive manner.

11 If, after working under PGE's proposed approach, Noble Solutions
12 determines that the treatment of franchise fees for direct access customers
13 continues to cause undue pricing disincentives for customers to select direct
14 access service, Noble Solutions will raise that issue in an appropriate venue at a
15 later date.

16 **Q. Does this conclude your reply testimony?**

17 A. Yes, it does.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of June, 2013, a true and correct copy of the within and foregoing **REPLY TESTIMONY OF NOBLE AMERICAS ENERGY SOLUTIONS LLC, IN DOCKET UE 262** was served as follows:

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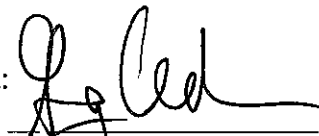
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