Docket No. UE 267
Exhibit CNE/SENA/100
Witness: Mary Lynch

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

Reply Testimony of Mary Lynch on behalf of Constellation NewEnergy, Inc. and Shell Energy North America (US) L.P.

September 13, 2013

Q: Please state your name, company, title, and business address.

A: My name is Mary Lynch. I am Vice President, Market Development, West, Constellation NewEnergy, Inc. ("CNE"). My business address is 5074 Nawal Drive, El Dorado Hills, CA 95762.

Q: Please describe your education and professional experience.

A: I have been employed by CNE and other Constellation entities since 2005. Since 2005, I have been responsible for CNE's regulatory and legislative affairs in the WECC region, including the State of Oregon, with a particular focus on market development issues, including retail choice, resource adequacy, capacity markets, utility procurement practices, and emerging environmental requirements. Prior to assuming my current responsibilities, in 2005, I had lead regulatory responsibilities for Constellation's business in the PJM region, and participated extensively in working groups and committees at PJM that focused on electric market design and operation. I also participated extensively in state regulatory proceedings dealing with the development and design of wholesale competitive energy procurement practices in Maryland, New Jersey, the District of Columbia, Pennsylvania, Illinois, Delaware, Ohio, and New York.

Prior to joining Constellation, from 1998 through May of 2002, I served as a vice president with Orion Power Holdings, with responsibility for managing the procurement of fossil fuel supplies, as well as managing regulatory affairs, with a primary focus on the New York State electric markets. From 1983 through 1998, I held various positions with New England Power Company and U.S. Generating Company, managing natural gas supply procurement operations. I graduated from California State University at

Northridge with a Bachelor of Arts degree in Biology in 1981, and from Northeastern University (Boston, Massachusetts) with a Masters in Business Administration in 1985.

Q: On whose behalf are you providing testimony in this proceeding?

A: I am testifying on behalf of CNE and Shell Energy North America (US), L.P. ("SENA").

Q: What are the interests of CNE and SENA in this proceeding?

A: CNE is a competitive retail energy provider that provides customized energy solutions and comprehensive energy services, including demand response, to residential, commercial, and industrial customers in 17 states and the District of Columbia. CNE is a certified Electricity Service Supplier ("ESS") in Oregon and is registered with Portland General Electric ("PGE"). CNE is a wholly owned subsidiary of Exelon Generation Company, LLC.

SENA is a wholesale and retail supplier of gas and electricity to customers throughout the United States. I am advised that SENA is interested in becoming an active participant in direct access programs in those jurisdictions, including Oregon, that adopt rules that provide for meaningful retail choice. I also understand that SENA is a certified ESS in Oregon. SENA is currently registered as an ESS with PGE, but not with PacifiCorp.

CNE and SENA are participating in this proceeding because their ability to provide retail energy services to customers of PacifiCorp will be affected by the terms and conditions of PacifiCorp's proposed five-year cost-of-service opt-out program.

Q: What is the purpose of your reply testimony?

A: My testimony addresses certain features of PacifiCorp's proposed five-year cost-of-service opt-out program. I respond to portions of the prepared testimony that was submitted on June 14, 2013, by PacifiCorp witnesses Joelle R. Steward and Gregory N. Duvall, with a primary focus on PacifiCorp's proposed "Consumer Opt-Out Charge."

Q: Please describe the background for PacifiCorp's proposed five-year cost-of-service opt-out program.

A: In response to the Commission's December 30, 2012 Order in Docket No. UM 1587 (Order No. 12-500), PacifiCorp filed Advice No. 13-004 on February 28, 2013. PacifiCorp seeks to implement a new five-year cost-of-service opt-out tariff (Schedule 296). As described by witness Steward, this new tariff is intended to allow an eligible customer to "fully transition off of cost-based supply service from [PacifiCorp] after five years, at which point the customer will no longer pay or receive a transition adjustment or pay Schedule 200 Base Supply Service rates." Exhibit (Ex.) PAC/100 at p. 2.

Q: What are some of the key terms and conditions under PacifiCorp's proposed five-year cost-of-service opt-out proposal?

A: First, the customer eligibility requirements would be consistent with the customer eligibility requirements under PacifiCorp's current three-year cost-of-service opt-out program (Schedule 295). Large non-residential customers that receive service under Delivery Service Schedules 47/747 or 48/748 would be eligible under Schedule 296.

Customers that receive service under Delivery Service Schedules 30/730, 47/747 or 48/748 under a single corporate name with meters that have more than 200 kw of billing demand, and that total to at least 2 MW, also would be eligible under Schedule 296.

Second, a customer electing the five-year cost-of-service opt-out tariff would be required to take direct access service from an ESS for all points of its power supply delivery. In other words, a participating customer would not be allowed to receive cost-based supply service from PacifiCorp for any portion of its load.

Third, PacifiCorp proposes a "cap" of 175 average MW (aMW) (approximately 1.5 million MW-hours) on the total load that would be accepted in the five-year program. Presumably, once the cap is reached, customer requests to participate in the program would be rejected.

Fourth, PacifiCorp proposes that after the direct access customer's five-year "transition" period ends under Schedule 296, the customer would not be allowed to return to cost-based supply service from PacifiCorp.

Fifth, PacifiCorp proposes two forms of departing load "surcharge" for the five-year term of a customer's participation in this program. PacifiCorp proposes that a participating customer must pay a "transition adjustment," which is described by witness Duvall as the "forecasted difference between regulated net power costs and [the] value of the freed-up energy." Ex. PAC/200 at p. 3. This charge is intended to reflect the difference (positive or negative) between PacifiCorp's regulated net power costs in Schedule 201 and the market value of the energy that PacifiCorp is not selling to the customer, over the five-year transition period. This charge, which would be imposed on each MWh delivered to the customer by the ESS during the five-year term, is also paid by customers that choose PacifiCorp's three-year cost-of-service opt-out program (Schedule 295).

In addition, PacifiCorp proposes that a participating customer must pay, over the five-year period, a "Consumer Opt-Out Charge." The Consumer Opt-Out-Charge is described by witness Duvall as "a valuation of the fixed generation costs incurred by [PacifiCorp] to serve customers, offset by the value of the freed-up power made available by the departing customers for years six through 20." Ex. PAC/200 at p. 5. Mr. Duvall explains that the Consumer Opt-Out Charge would be calculated by "combining the net present value of the projected Transition Adjustments and Base Supply Service rates for years six through twenty and converting the result to a five-year nominal levelized payment stream using [PacifiCorp's] discount rate." Id. at p. 6. In other words, between the "transition adjustment" and the "Consumer Opt-Out Charge," PacifiCorp seeks to recover twenty years' worth of "transition adjustments" over a five-year period.

Q: Do you support PacifiCorp's proposed Consumer Opt-Out Charge?

A: No. This proposed charge would effectively extend a participating customer's five-year "transition" obligation to twenty years, by requiring the customer to pay for twenty years of "stranded" costs over a five year period. Mr. Duvall states that the Consumer Opt-Out Charge is "necessary to minimize cost shifting to non-participating customers when customers in this program cease paying Base Supply Service in Schedule 200 after five years." Ex. PAC/200 at p. 6. Contrary to Mr. Duvall's statement, however, a five-year transition adjustment obligation is long enough. A customer that departs PacifiCorp's cost-based supply service and pays a transition adjustment for five years should not bear any additional responsibility for PacifiCorp's net power costs or base supply costs.

A five-year transition period provides PacifiCorp with more than adequate opportunity to mitigate the "stranded" costs that may (or may not) result from the loss of customer load. With five-year advance notification, PacifiCorp has more than enough opportunity to adjust its power procurement practices to account for departing load. The transition adjustment paid by the departing customer over the five-year term fully satisfies a requirement to avoid shifting costs to customers that remain on utility service.

Q: Should a customer that participates in PacifiCorp's five-year cost-of-service opt-out program bear responsibility for the fixed costs of procurement or generation assets that PacifiCorp acquired or constructed to serve that customer?

A: Even without any meaningful participation in the direct access program, customers regularly commence utility service and terminate utility service on the PacifiCorp system without committing to remain a customer of PacifiCorp (and without committing to pay for PacifiCorp's generation assets) for a specific period of time. PacifiCorp does not purchase generation capacity, construct generation facilities, or enter into power purchase agreements (PPAs) to satisfy any individual customer's demand. Instead, PacifiCorp purchases or constructs generation facilities and/or enters into PPAs based upon its best projection of customer demand over time, and maintains a portfolio of supply resources, with varying and overlapping terms, in order to account for the fact that utility customers come and go. Unless a customer agrees to underwrite the cost of a specific generation resource acquired by PacifiCorp, the customer should not be responsible for paying the cost of that specific generation resource (or any other PacifiCorp procurement-related resource) for an unlimited period. In view of PacifiCorp's ability to manage the assets in its supply portfolio, a five-year transition adjustment obligation is more than sufficient to ensure against "cost-shifting" to non-participating customers.

Q. Please summarize your recommendations with respect to PacifiCorp's proposed departing load charges for Schedule 296 customers?

A. If properly calculated, the transition adjustment proposed by PacifiCorp is reasonable. However, the proposed Consumer Opt-Out Charge should be rejected in its entirety.

Q: Do you have comments on other elements of PacifiCorp's proposed Schedule 296?

A: Yes. I have comments on the proposed "cap" and the proposal to prevent participating customers from returning to cost-based supply service.

A. <u>The Cap Should Apply for an Interim Period</u>

A "cap" of 175 aMW on participation in the five year cost-of-service opt-out program is reasonable, but only for an interim period. There are two possible ways to address the interim "cap." The first would be to restructure the 175 aMW cap to provide that when customers reach the end of the five-year transition period, other customers may make the five-year opt out election, such that the amount of load in a transition period may always be as high as 175 aMW. Alternatively, as PacifiCorp and its customers gain experience with this additional tariff option, the level of the cap could be increased and, over time, eliminated. Once the five-year cost-of-service opt-out program is functioning effectively, there is no reason to preclude otherwise eligible customers from participating in the program.

B. <u>Customer Return to Cost-Based Supply Service</u>

A customer that participates in the five-year cost-of-service opt-out program should not be precluded, for all time, from returning to cost-based supply service. If a participating direct access customer provides adequate advance notice to PacifiCorp, the customer should be allowed to return to cost-based supply service after the end of the five-year period.

A three-year advance notice period provides PacifiCorp with ample opportunity to integrate that customer load back into its procurement planning and execution so that the returning load can be served with the same supply mix used to supply the rest of PacifiCorp's customers receiving cost-based supply service. A three-year notice period to return to utility cost-based supply service has been agreed upon by PGE under its five-year cost of service opt-out program in a "Partial Stipulation" that was submitted on July 25, 2013 in Docket No. UE 262. The same three-year advance notice requirement should be adopted for PacifiCorp in this proceeding.

Q: Please summarize the terms and conditions that you propose for PacifiCorp's five-year cost of service opt-out program under Schedule 296.

A: The terms and conditions for the five-year cost-of-service opt-out program should include the following:

1. The program should be subject to an initial cap of 175 aMW of eligible customer participation, subject to increase or elimination over time.

2. The transition adjustment, properly calculated, should be fixed for the five-year term of a customer's participation. PacifiCorp's proposed Consumer Opt-Out Charge should be rejected.

3. After the end of the five-year term, a customer that participates in the cost-of-service opt-out program remains a direct access customer, except that at any time after the end of the five-year term, the customer may return to cost-based supply service upon three years' advance notice to PacifiCorp.

Q: Does this complete your reply testimony?

A: Yes.

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of September, 2013, a true and correct copy of the foregoing document entitled "Reply Testimony of Mary Lynch on behalf of Constellation NewEnergy, Inc. and Shell Energy North America (US) L.P." was served by electronic mail on Presiding Administrative Law Judge Traci Kirkpatrick and all persons listed on the official service list maintained by the Commission in Docket No. UE 267. A copy of the service list is attached hereto.

Heather Karlstad

Heather Karlstad

US_WEST 803795079.1

Summary Report

Oregon Public Utility Commission
Printed: 9/13/2013

UE 267 PACIFIC POWER

Category: Electric Rate Case
Filed By: PACIFIC POWER
This filing provides a five-year opt-out program to qualified customers.

Filing Date: 2/28/2013 **Advice No:** 13-004
Effective Date: 1/1/2014 **Expiration Date:** 12/31/2013 **Status:** SUSPENDED

Final Order: **Signed:** 2/28/2013

SERVICE LIST:

GREGORY M. ADAMS -- CONFIDENTIAL
RICHARDSON ADAMS, PLLC
PO BOX 7218
BOISE ID 83702

KEN BAKER
WALMART STORES INC
2001 SE 10TH ST
BENTONVILLE AZ 72716

GREG BASS
NOBLE AMERICAS ENERGY SOLUTIONS, LLC
401 WEST A ST., STE. 500
SAN DIEGO CA 92101

KURT J BOEHM -- CONFIDENTIAL
BOEHM KURTZ & LOWRY
36 E SEVENTH ST - STE 1510
CINCINNATI OH 45202

CYNTHIA FONNER BRADY
EXELON BUSINESS SERVICES COMPANY
4300 WINFIELD RD
WARRENVILLE IL 60555

STEVE W CHRISS -- CONFIDENTIAL
WAL-MART STORES, INC.
2001 SE 10TH ST
BENTONVILLE AR 72716-0550

JOHN DOMAGALSKI
CONSTELLATION NEWENERGY, INC.
550 WEST WASHINGTON BLVD, STE 300
CHICAGO IL 60661

CARL FINK
628 SW CHESTNUT ST, STE 200
PORTLAND OR 97219

EDWARD FINKLEA
EXECUTIVE DIRECTIOR
326 FIFTH ST
LAKE OSWEGO OR 97034

THOMAS M GRIM -- CONFIDENTIAL
CABLE HUSTON BENEDICT ET AL
1001 SW FIFTH AVE STE 2000
PORTLAND OR 97204-1136

MARC HELLMAN -- CONFIDENTIAL
PUBLIC UTILITY COMMISSION OF OREGON
PO BOX 2148
SALEM OR 97308-2148

KEVIN HIGGINS -- CONFIDENTIAL
ENERGY STRATEGIES LLC
215 STATE ST - STE 200
SALT LAKE CITY UT 84111-2322

ROBERT D KAHN
NW & INTERMOUTAIN POWER PRODUCERS COALITION
1117 MINOR AVENUE, SUITE 300
SEATTLE WA 98101

JODY KYLER COHN -- CONFIDENTIAL
BOEHM, KURTZ & LOWRY
36 E SEVENTH ST STE 1510
CINCINNATI OH 45202

JOHN LESLIE
SHELL ENERGY
600 WEST BROADWAY SUITE 2600
SAN DIEGO CA 92101

ETTA LOCKEY -- CONFIDENTIAL
PACIFICORP
825 NE MULTNOMAH ST., STE 1800
PORTLAND OR 97232

RICHARD LORENZ -- CONFIDENTIAL
CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP
1001 SW FIFTH AVE - STE 2000
PORTLAND OR 97204-1136

MARY LYNCH
CONSTELLATION ENERGY COMMODITIES GROUP, INC
5074 NAWAL DRIVE
EL DORADO HILLS CA 95762

LISSA MALDONADO
SAFEWAY INC
5918 STONERIDGE MALL ROAD
PLEASANTON CA 94588-3229

MARCIE MILNER
SHELL ENERGY NORTH AMERICA
4445 EASTGATE MALL STE 100
SAN DIEGO CA 92121

JOHANNA RIEMENSCHNEIDER -- CONFIDENTIAL
PUC STAFF - DEPARTMENT OF JUSTICE
BUSINESS ACTIVITIES SECTION
1162 COURT ST NE
SALEM OR 97301-4796

SAMUEL L ROBERTS -- CONFIDENTIAL
HUTCHINSON COX COONS ORR & SHERLOCK
777 HIGH ST STE 200
PO BOX 10886
EUGENE OR 97440

IRION A SANGER -- CONFIDENTIAL
DAVISON VAN CLEVE
333 SW TAYLOR - STE 400
PORTLAND OR 97204

DONALD W SCHOENBECK -- CONFIDENTIAL
REGULATORY & COGENERATION SERVICES INC
900 WASHINGTON ST STE 780
VANCOUVER WA 98660-3455

NONA SOLTERO
FRED MEYER STORES/KROGER
3800 SE 22ND AVE
PORTLAND OR 97202

JOELLE STEWARD -- CONFIDENTIAL
PACIFIC POWER & LIGHT
825 NE MULTNOMAH STE 2000
PORTLAND OR 97232

DOUGLAS C TINGEY
PORTLAND GENERAL ELECTRIC
121 SW SALMON 1WTC13
PORTLAND OR 97204

JAY TINKER
PORTLAND GENERAL ELECTRIC
121 SW SALMON ST 1WTC-0702
PORTLAND OR 97204

S BRADLEY VAN CLEVE -- CONFIDENTIAL
DAVISON VAN CLEVE PC
333 SW TAYLOR - STE 400
PORTLAND OR 97204

GEORGE WAIDELICH
SAFEWAY INC
5918 STONERIDGE MALL RD
PLEASANTON OR 94588-3229