

1 **Q. Please state your name, business address and position with PacifiCorp or**
2 **“the Company”.**

3 A. My name is Andrea L. Kelly. My business address is 825 NE Multnomah Street,
4 Suite 2000, Portland, Oregon 97232. I am employed by PacifiCorp as Vice
5 President of Regulation.

6 **Q. Please summarize your education and business experience.**

7 A. I hold a Bachelor’s degree in Economics from the University of Vermont and an
8 MBA in Environmental and Natural Resource Management from the University
9 of Washington. After graduate school, I joined the Staff of the Washington
10 Utilities and Transportation Commission. In 1995, I became employed by
11 PacifiCorp as a Senior Pricing Analyst in the Regulation Department and
12 advanced through positions of increasing responsibility. From 1999 through
13 2005, I led major strategic projects at PacifiCorp including the Multi-State
14 Process (MSP) and the regulatory approvals for the Mid-American-PacifiCorp
15 transaction. In March 2006, I was appointed Vice President of Regulation.

16 **Purpose of Testimony**

17 **Q. What is the purpose of your testimony?**

18 A. My testimony provides a discussion of the background and history leading up to
19 the Company’s May 24, 2011 compliance filing. My testimony supports the
20 Company’s compliance filing and specifically presents the Company’s policy-
21 based arguments against a Commission decision to retroactively credit to
22 customers revenues related to the sales of renewable energy credits (RECs). I
23 also introduce the Company’s other witnesses in this phase of the proceeding.

1 **Background and History**

2 **Q. Please provide a brief summary of the background and history related to the**
3 **Company's May 24, 2011 compliance filing.**

4 A. The Company submitted this filing to comply with the Washington Utilities and
5 Transportation Commission's (Commission) Order 06 in this docket (Order).
6 The Order directed the Company to make certain filings within 60 days of the
7 Order related to proceeds from sales of RECs. The relevant paragraphs from the
8 Order are as follows:

9 Paragraph 206 of the Order requires:

10 "that the Company prepare and file within 60 days following the date of
11 this Order a detailed accounting of all REC proceeds received during the
12 period January 1, 2009, to the most recent date for which data are
13 available. The report must include any updated forecast of PacifiCorp's
14 REC sales for the rate year. We direct the company to work cooperatively
15 with Commission Staff as to the form and content of this filing so that it
16 will prove most beneficial to the Commission."

17 Paragraph 208 of the Order requires:

18 "the Company to file within 60 days after the date of this Order a detailed
19 proposal for operation of the tracking mechanism going forward. This
20 proposal should be developed in consultation with Staff and any other
21 parties who wish to participate. The proposal must include a detailed
22 discussion of the allocation method(s) the Company uses, or proposes to
23 use, when allocating and reporting REC proceeds to Washington. If other
24 parties disagree with PacifiCorp as to the details of the tracking
25 mechanism or the allocation and reporting method(s) PacifiCorp uses or
26 proposes to use, they may file alternative proposals."

27 Paragraph 384 of the Order states:

28 "PacifiCorp must file within sixty days of this Order a detailed accounting
29 of Renewable Energy Credit (REC) revenues received since January 1,
30 2009, and a detailed proposal for the REC tracking mechanism as required
31 in Section II.C.2 of this Order. These filings, as well as additional filings
32 required to be made in connection with the REC tracker, as discussed in
33 the body of this Order, must be made in this docket as compliance filings

1 or reports, as required under WAC 480-07-880(1) and (3).”

2 Paragraph 207 of the Order states:

3 “We require this detailed accounting, in part, considering the disputed
4 question of whether PacifiCorp should be required to include, in what we
5 here describe as a tracker account, REC proceeds received during the
6 periods after the test year, including those received during the pendency of
7 this proceeding. Staff proposed that REC proceeds received after January
8 1, 2010, be accounted for and established as a regulatory liability on the
9 Company’s books, the rate treatment of which could be determined in a
10 future proceeding. Another possible starting date for such an account
11 might be the date on which PacifiCorp made its initial filing in this
12 proceeding, which put the rate and accounting treatment of REC revenues
13 in issue. Other possible dates are conceivable, including the start of the
14 rate year. We do not finally resolve these questions in this Order. We
15 require additional briefing on the subject, and may require additional
16 evidence. We will establish process and schedule for this by subsequent
17 notice.”

18 **2010 REC Revenues**

19 **Q. What starting date does the Company propose for its REC tracking**
20 **mechanism?**

21 A. As indicated in the Company’s compliance filing, the Company recommends that
22 the REC tracking mechanism operate on a forward-looking basis only, consistent
23 with the April 2011 effective date for new rates in this case. Including prior REC
24 revenues in the REC tracking mechanism is inequitable to the Company for the
25 reasons I discuss below.

26 **Q. Have REC revenues for 2010 already been reflected in rates?**

27 A. Yes. As noted in Order 09 in Docket UE-090205, the stipulated revenue
28 requirement approved by the Commission included in base rates an adjustment for
29 projected REC sales in the 2010 rate period of \$657,755.

1 **Q. Did the Stipulation approved in Docket UE-090205 contain other provisions**
2 **relevant to the issue of REC revenues?**

3 A. Yes. The approved Stipulation required the Company to provide periodic REC
4 reports to the parties to promote “transparency in the Company’s management of
5 these credits.” Order 09 at 22. In support of this provision, ICNU noted that REC
6 reporting provides “the Parties the practical ability to file for deferred accounting
7 or request that the Commission take another action regarding PacifiCorp’s
8 Washington-allocated RECs.” Order 09 at 15. The Company has been providing
9 these REC reports since December 2009.

10 **Q. What are the Company’s concerns about retroactively crediting to customers**
11 **additional REC revenues for 2010?**

12 A. I have been advised by counsel that an adjustment to refund REC revenues from
13 an historic base period constitutes retroactive ratemaking, which is illegal under
14 Washington law. From a policy perspective, the prospect of retroactively
15 crediting additional 2010 REC revenues introduces significant risks, creates an
16 unpredictable regulatory environment for the Company, and discourages future
17 actions by the Company to take the initiative to improve its earnings. In addition,
18 as discussed below, this action would be particularly punitive in light of the fact
19 that the Company’s actual earnings did not approach its authorized rate of return
20 even accounting for the incremental REC revenues.

21 **Q. Please explain.**

22 A. The Company operates its regulated utility business based on the policies and
23 practices that have long been established and upheld in each of its regulatory

1 jurisdictions. In Washington, these policies include:

- 2 (1) setting rates that are designed to allow the Company an opportunity to
3 recover its prudently incurred costs of providing safe and reliable electric
4 service, including an opportunity to earn its allowed return on investment;
5 (2) adhering to an approach to ratemaking that is grounded in the matching
6 principle; and
7 (3) relying on both legal and policy-driven precedent that provides utilities
8 with predictability and removes uncertainty.

9 From the Company's perspective, a retroactive "tracking" of historic REC
10 revenues places each of these policies into question.

11 **Q. What was the Company's earned return on equity for calendar year 2010?**

12 A. As discussed in the phase II direct testimony of Company witness R. Bryce
13 Dalley, the Company earned a return on equity of 6.69 percent, including the
14 impact of the REC revenues. Without the impact of the REC revenues, the
15 Company's earned return on equity would fall by approximately 128 basis points
16 to 5.41 percent, as compared to the then-current authorized return on equity of
17 10.2 percent. At this point, there is nothing that the Company can do to improve
18 its earnings in 2010 since retroactive ratemaking prevents the Company from
19 seeking to recover additional costs that it incurred in 2010 as compared to those
20 included in the UE-090205 test period. Furthermore, if the Commission orders
21 any additional revenue credit to customers related to 2010, the Company will
22 need to take an additional one-time adjustment against earnings in the year in
23 which the order is received. The risk of a large one-time adjustment to earnings

1 related to prior periods creates a significant disincentive for taking initiatives to
2 manage costs and revenues as an integrated business – especially when the
3 adjustment could exceed the full amount of the rate increase authorized for 2010
4 in UE-090205.

5 **Q. Was there an alternative available to parties during 2010 with respect to**
6 **REC revenues?**

7 A. Yes. The traditional approach of filing for deferred accounting was available to
8 parties. However, no party filed a request for deferred accounting related to REC
9 revenues, even though the parties expressly reserved their right to do so in the
10 Stipulation approved in UE-090205. Had this traditional approach been followed,
11 the Company then would have had a similar opportunity to file for deferred
12 accounting related to increases in costs. This approach is consistent with the
13 matching principle which does not look at a single ratemaking item in isolation
14 and considers both costs and revenues in a consistent manner.

15 **Q. Why is the 2010 REC revenue baseline from the UE-090205 Stipulation**
16 **significant for this proceeding?**

17 A. It is clear from the UE-090205 Stipulation that all parties were agreeing to a
18 specific baseline for REC revenues in calendar year 2010. However, certain
19 parties now argue that this next rate case, UE-100749 should be used to set a
20 baseline for REC revenues in calendar year 2009, as a defense against retroactive
21 ratemaking. This after-the-fact change in position is particularly concerning.

22 In Order 06, the Commission authorized a base rate increase designed to
23 provide the Company the opportunity to earn its authorized return on equity based

1 on the 2009 historic test period with known and measurable changes. If
2 additional REC revenues are justified and returned to customers through the REC
3 tracker based on the use of the 2009 historic test year, the end result would be to
4 deny the Company the opportunity to earn what has recently been found to be
5 fair, just and reasonable by this Commission.

6 **Q. Would it have been reasonable for the Company to interpret the Puget**
7 **Sound Energy order in Docket UE-070725 to now allow for retroactive**
8 **ratemaking?**

9 A. No. As noted by the Commission, the Puget Sound Energy (PSE) order stands for
10 the proposition that customers are generally entitled to a revenue credit for REC
11 revenues. The Company does not contest this premise, as illustrated by the REC
12 revenue adjustment already in its rates. There is nothing in the PSE order,
13 however, that supports the proposition that normal ratemaking principles should
14 be disregarded when calculating a REC revenue adjustment. The PSE order did
15 not result in a regulatory accounting order that operates incrementally to an
16 adjustment to base rates, nor did parties in that case make any argument to track
17 REC revenues that pre-dated PSE's filing for a regulatory accounting order.

18 **Q. If the Commission had approved the Stipulation in Docket UE-090205**
19 **subject to a balancing account for incremental REC revenues, would the**
20 **Company have agreed to be bound by the Stipulation's terms?**

21 A. No. A balancing account for REC revenues was explicitly not included in the
22 Stipulation and the Company would have seen this additional condition as a
23 material departure from the terms of the Stipulation. Once again, however, the

1 Company cannot now take any actions that would change the terms of the
2 Stipulation.

3 **Q. Will other parties argue that the REC tracking mechanism should reach**
4 **back to 2009?**

5 A. Yes. Based on discussions leading up to the Company's May 24, 2011
6 compliance filing, as well as Commission Staff's Approach for Allocating RECs,
7 filed on May 24, 2011, it is apparent that Commission Staff (and potentially other
8 parties) will seek a retroactive credit for REC revenues related to 2009. In the
9 Company's opinion, this is inconsistent with the plain reading of paragraph 207
10 which specifically relates to "REC proceeds received during the periods after the
11 test year, including those received during the pendency of this proceeding".

12 **Q. How was the REC revenue credit in the balancing account calculated?**

13 A. As it has been in the Company's past general rate cases, the REC revenues are
14 tied to the forecast of net power costs for the rate effective period – April 3, 2011
15 through April 2, 2012. This is also noted in the Order stating: "At the end of the
16 rate year, PacifiCorp will be required to submit a full accounting of REC proceeds
17 actually received during the preceding 12 months." The Commission further
18 noted that it "will authorize a true-up of the initial credits." (paragraph 205)

19 **Q. What is the Company's response to the argument that the REC tracking**
20 **mechanism should include 2009 REC revenues?**

21 A. First, the time period is more remote—beginning 32 months from the date of this
22 filing. Second, the Company's return on equity in 2009 was lower than in 2010
23 (5.28 percent including incremental REC revenues, or 4.52 percent if these

1 revenues were retroactively credited). Third, the adjustment to earnings would
2 impact a time period for which the Company's books have now been closed for
3 several years—underlining the unfairness of such an approach.

4 **Q. Is there another important example of how this docket has created**
5 **uncertainty for the Company?**

6 A. Yes. Commission Staff's Approach for Allocating RECs, filed on May 24, 2011,
7 proposed an entirely new methodology for allocating REC revenues to
8 Washington, and further proposed that this new methodology be used to
9 determine the retroactive REC revenue credit. This new methodology was first
10 introduced by Staff in its May 24, 2011 filing. This issue is discussed in more
11 detail by Mr. Dalley.

12 **Q. Please summarize your testimony.**

13 A. As presented above, the Company believes that the retroactive crediting to
14 customers of REC revenues prior to April 3, 2011 is illegal, inadvisable and
15 unfair. Such a dramatic departure from long-standing Commission legal
16 precedent and policies is unwarranted, especially in light of the Company's
17 persistent under-earnings in the state of Washington.

18 **Q. Who are the other Company witnesses in this phase of the proceeding?**

19 A. The other Company witnesses are:
20 **Stacey J. Kusters**, Director of Origination in Commercial and Trading, provides
21 background on the Company's policy toward REC sales and the uncertain and
22 volatile REC market. Ms. Kusters also explains the detailed accounting of REC

1 revenues for 2009 and 2010, the REC sales forecast and the approach for
2 allocation of resources to specific REC sales contracts.

3 **R. Bryce Dalley**, Manager of Revenue Requirement, testifies on the Company's
4 earned returns in 2009 and 2010 and its inter-jurisdictional allocation
5 methodology for RECs and REC revenues. Mr. Dalley also sponsors the
6 Company's REC tracking mechanism proposal included in the Company's May
7 24, 2011, compliance filing.

8 **Q. Does this conclude your testimony?**

9 A. Yes.