

[Service Date December 23, 2003]

December 23, 2003

NOTICE OF REQUEST FOR RESPONSIVE COMMENTS

(Due by Friday, January 9, 2004)

On November 26, 2003, the Washington Utilities and Transportation Commission (“Commission”) issued a penalty assessment against PacifiCorp in Docket No. UE-031942. On December 11, 2003, PacifiCorp filed with the Commission a request for mitigation of the penalty, as allowed under RCW 80.04.405. PacifiCorp submits four reasons that imposition of a penalty is inappropriate:

First, Chapter 480-107 WAC should not be construed to require an RFP filing unless a utility makes the election to acquire new resources via a Commission-approved RFP. Second, the ongoing rulemaking proceeding to revise the RFP rules strongly suggests that the rules are unclear and unworkable in their present form. Third, fairness suggests that PacifiCorp not be punished for not filing an RFP, a practice that has been widely followed by utilities and apparently condoned by the Commission in the fourteen years since the regulations were implemented. Fourth, PacifiCorp complied with the essential features of Chapter 480-107 WAC in its filings.

The Commission requests that Commission Staff file comments with the Commission in response to PacifiCorp’s plea for mitigation, no later than Friday, January 9, 2004, and serve a copy of the comments simultaneously on PacifiCorp.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary

cc: Parties of Record