

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP D/B/A PACIFIC POWER  
& LIGHT COMPANY,

Respondent.

DOCKET UE-130043

**AMENDED BRIEF OF PUBLIC COUNSEL**

**October 1, 2013**

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## I. INTRODUCTION

1. This case represents the eighth request for a rate increase made by PacifiCorp since 2003.<sup>1</sup> The impact on the individuals, families and businesses that ultimately experience the rate increase must be considered in evaluating a utility's request.
2. The vast majority of PacifiCorp's service territory is in Yakima and Walla Walla Counties in Eastern Washington. PacifiCorp also serves parts of Columbia, Garfield, and Kittitas Counties. PacifiCorp's Washington service territory includes some of the counties hardest hit by the recent economic downturn. For these areas, the difficulties continue, and they are still struggling to recover.
3. Indeed, recent U.S. Census data shows that Yakima and Walla Walla Counties have a disproportionately high number of people living below the poverty level compared to other areas in our state. The percentage of the total population living below the poverty level in Washington is 12.5 percent, whereas 18.2 percent of the population lives below the poverty level in Walla Walla County. In Yakima County, the percentage living below the poverty level is 21.4 percent.<sup>2</sup>
4. In this case, PacifiCorp is requesting a 12.1 percent overall increase in revenue, which would result in an increase in revenue of \$36.9 million.<sup>3</sup> This represents a substantial increase, particularly when considering that the requested rate increase would be spread across approximately 132,000 customers.<sup>4</sup> A significant portion of PacifiCorp's request is related to

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<sup>1</sup> PacifiCorp general rate case dockets: UE-032065, UE-050684, UE-061546, UE-080220, UE-090205, UE-100749, UE-111190, and UE-130043.

<sup>2</sup> See Exh. No. LD-1T at 8:13 – 9:3.

<sup>3</sup> TR. 99:3-9 (Griffith).

<sup>4</sup> Exh. No. RPR-1T at 2:16-17.

cost of capital. Commission Staff and Boise White Paper both sponsor witnesses who address the Company's cost of capital proposals.

5. Both Commission Staff and Boise White Paper recommend that the Commission reject PacifiCorp's request to raise the return on equity and to adopt their respective recommendations to lower the return on equity. Public Counsel would urge the Commission to consider reducing the return on equity consistent with the testimonies of either Commission Staff or Boise White Paper to reflect the downward trend seen in equity returns during recent years.<sup>5</sup>

6. In this brief, Public Counsel will address changes proposed to the West Control Area allocation methodology in Section II. In Section III, Public Counsel will discuss tools to address regulatory lag, including end-of-period rate base and expedited rate filing. In Section IV, Public Counsel will discuss PacifiCorp's major plant addition proposals. In Section V, Public Counsel will address net power cost issues. In Section VI, Public Counsel will discuss executive compensation, and in Section VII, investor supplied working capital is addressed. In Section VIII, Public Counsel will address PacifiCorp's proposed power cost adjustment mechanism. In Section IX, Public Counsel presents select public comments made in this proceeding from members of the public. And, lastly, Public Counsel will address the limited settlement on rate spread and rate design issues in Section X.

7. Ultimately, Public Counsel recommends that the Commission grant a smaller rate increase than the one requested.

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<sup>5</sup> See *WUTC v. Avista Corp. d/b/a Avista Util.*, Dockets UE-120436 and UG-120437 (consolidated), Order 09, ¶ 74 (December 26, 2012). The Commission approved a settlement that stipulated to a 9.8 percent return on equity but noted that equity returns "continue to trend downward." The Commission stated that, had the case been litigated, it "may very well have decided that an ROE of less than 9.8 percent would be warranted."

## II. WEST CONTROL AREA ALLOCATION FACTORS

### A. PacifiCorp's Proposed Change to the CAGW Factor should be Denied and the 75% Demand and 25% Energy Weightings should be Retained.

8. PacifiCorp's Control Area Generation West (CAGW) factor is used to allocate generation and transmission costs assigned to the west control area (Washington, Oregon, and California).

PacifiCorp proposes to change the calculation of the CAGW factor to weigh demand and energy components at 38% / 62%, respectively, from the 75% / 25% weighting used in prior cases.

PacifiCorp bases its proposal on the calculations in its cost of service study (COSS) of a peak credit ratio of 38 percent for demand-related generation and transmission costs and a 62 percent ratio for energy-related costs.<sup>6</sup>

9. Public Counsel witness Mr. Coppola reviewed PacifiCorp's proposal and determined that the change was unsupported, particularly because the Company continues to use a 75% / 25% weighting for other factors.<sup>7</sup> As noted by Mr. Coppola, the COSS calculation of 38% demand and 62% energy is based on a ratio of average hourly power demand to peak day demand during the 12 months ended January 2012.<sup>8</sup> This ratio proves nothing of significance with regard to how costs should be allocated. It merely shows that average hourly consumption for the year is 62 percent of the peak day demand. To conclude that only the remaining 38 percent is demand-related ignores the fact that new generation and transmission capacity is typically added to meet peak demand. Therefore, peak demand drives fixed cost increases by a larger percent than average energy consumption.<sup>9</sup>

<sup>6</sup> Exh. No. SC-1CT at 12:1-8; Exh. No. CCP-1T at 5:9-12.

<sup>7</sup> Exh. No. SC-1CT at 12:10-11.

<sup>8</sup> Exh. No. SC-1CT at 12:11-13; Exh. No. CCP-4.

<sup>9</sup> Exh. No. SC-1CT at 12:13-20.

10. This disconnect between the COSS, the demand/energy ratio and the CAGW factor was reflected in PacifiCorp's last general rate case request. There, even though PacifiCorp calculated a lower demand/energy ratio of 35% / 65% for purposes of its COSS, it proposed a demand/energy weight of 75% / 25% for the CAGW factor.<sup>10</sup>

11. PacifiCorp has not explained why shifting the allocation factor to more heavily weigh energy components over demand components is reasonable. On rebuttal, PacifiCorp did not refute the argument that peak demand drives fixed cost increases by a larger percent than average energy consumption. This argument supports leaving the CAGW unchanged.<sup>11</sup> PacifiCorp fails to prove that the change it has proposed to the CAGW factor is warranted.

12. Therefore, the Commission should reject the change and retain the 75% / 25% demand/energy weighting. As a result, the CAGW allocation factor would be 22.6055% instead of 22.6265%.<sup>12</sup> Returning the CAGW allocation factor to a 75% / 25% weighting also affects other allocation factors, primarily the Jim Bridger Generation (JBG) factor, which would be 22.4766% instead of 22.6055%.<sup>13</sup> The Wheeling Revenue – Generation and the Trojan Decommissioning Allocator also are affected, but the percentage change is not significant.<sup>14</sup>

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<sup>10</sup>Exh. No. SC-1CT at 12:21 – 13:2 (Referring to PacifiCorp's CAGW proposal and COSS results presented in Docket UE-111190).

<sup>11</sup> Notably, Staff and Boise White Paper also objected to the Company's proposed changes to the CAGW and recommend retaining the 75% / 25% weighting.

<sup>12</sup> Exh. No. SC-1CT at 13:4-6.

<sup>13</sup> Exh. No. SC-1CT at 13:7-9.

<sup>14</sup> Exh. No. SC-1CT at 13:10-13; Exh. No. SC-3.



**B. Commission should Reject PacifiCorp's use of the System Overhead Factor to Allocate Administrative and General Costs and Approve Public Counsel's Recommendation to use the System Net Plant Allocation Factor.**

13. PacifiCorp seeks to use the system overhead (SO) factor to allocate system-wide administrative and general (A&G) costs.<sup>15</sup> A key justification offered by PacifiCorp to continue using the SO factor is that it has been used for many years and has been adopted by other jurisdictions.<sup>16</sup> The conclusion that the SO factor is a more appropriate factor is not supported by evidence.

14. Public Counsel witness Mr. Coppola explains that the system net plant (SNP) allocation factor is more appropriate than the SO factor to allocate system-wide A&G costs.<sup>17</sup> The SO factor uses the value of gross plant assigned to each state jurisdiction relative to the value of total-company gross plant to allocate corporate overhead and general and intangible plant costs. The use of gross plant overstates the allocation of overhead and general plant to those jurisdictions that have older more established facilities, and under-allocates costs to jurisdictions that have experienced recent growth and plant additions. This is because older facilities have been significantly depreciated.<sup>18</sup>

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<sup>15</sup> Exh. No. SRM-5 at 7.

<sup>16</sup> Exh. No. RBD-3T at 7:1-10.

<sup>17</sup> Exh. No. SC-1CT at 13:15 – 14:9.

<sup>18</sup> Exh. No. SC-1CT at 13:17 – 14:3.

15. In contrast, the SNP factor is calculated on plant value net of accumulated depreciation. This calculation reflects the fact that older, more established plant facilities require less management and administrative attention than newly built facilities.<sup>19</sup> As a result, the SNP allocation factor is a more appropriate factor to use to allocate system-wide administrative and general costs.<sup>20</sup>

**C. Commission should Reject PacifiCorp's use of the Gross Plant System Factor to Allocate Property Tax Expenses and Approve Public Counsel's Recommendation to use the System Net Plant Allocation Factor.**

16. PacifiCorp seeks to use the Gross Plant System (GPS) allocation factor to allocate property taxes.<sup>21</sup> Public Counsel recommends that the Commission reject the Company's proposal and use instead the SNP factor.<sup>22</sup> The Company did not address Public Counsel's recommendation in its rebuttal case.

17. Just as the SO factor fails to properly allocate A&G costs among jurisdictions, the GPS factor also distorts the allocation of property tax expenses. Property taxes are generally based on an amortization schedule of the original plant cost determined by the local taxing authority, and the final taxable value is often determined through negotiations.<sup>23</sup> As a result, the taxable value and property tax assessments more closely reflect the depreciated value of plant on the

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<sup>19</sup> Exh. No. SC-1CT at 14:5-8. Commission Staff comes to a similar conclusion. Commission Staff witness Ms. White testifies that, "Staff disputes the appropriateness of using the SO factor because it is based on gross plant, which reflects the account balances at the time an item of plant was placed in service." Exh. No. KAW-1CT at 17:1-5. Ms. White testifies further that, "An allocation factor based on *net* plant is superior because it removes any depreciation that has accumulated during the years the plant has been in service." Exh. No. KAW-1CT at 17:6-8. Removal of accumulated depreciation results in smaller balances for older plant and larger balances for newer plant, which recognizes that newer plant additions have "a higher correlation with the current operations and strategic focus of the Company." Exh. No. KAW-1CT at 17:8-12.

<sup>20</sup> In comparison, the SNP factor is 6.2780% while the SO factor is 6.8509%.

<sup>21</sup> Exh. No. SRM-5 at 12.

<sup>22</sup> Exh. No. SC-1CT at 14:10-19.

<sup>23</sup> Exh. No. SC-1CT at 14:12-15; Exh. No. SRM-4C.

Company's books than the gross plant value.<sup>24</sup> Using the SNP factor avoids this distortion. As such, the SNP factor is a more appropriate factor to allocate property taxes.<sup>25</sup>

18. The Commission should weigh carefully the proposals to change the WCA allocation methodology. As shown in Mr. Coppola's testimony, PacifiCorp has not demonstrated a need to change the CAGW factor calculation and the demand/energy weighting should remain at 75% / 25%. Additionally, the SNP factor more appropriately allocates both administrative and general costs and property tax expenses. Therefore, the Commission should use the SNP factor in place of the SO and GPS factors.<sup>26</sup>

### III. TOOLS TO ADDRESS REGULATORY LAG: END-OF-PERIOD RATE BASE AND EXPEDITED RATE FILING

#### A. Use of End-of-Period Rate Base Meaningfully Addresses Regulatory Lag and should be Approved.

19. The Commission has recently opined on the pattern of almost continuous rate cases being filed by investor-owned utilities in Washington and has encouraged development of thoughtful solutions. The Commission has indicated that it would give "fair consideration" to proposals that "might break the current patterns of almost continuous rate cases."<sup>27</sup>

20. In this case, PacifiCorp proposes to use end-of-period values to determine rate base. It states that its proposal to use end-of-period rate base, along with the Company's other proposals, is designed to address chronic under-earning and timely recovery of infrastructure investments

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<sup>24</sup> Exh. No. SC-1CT at 14:15-17.

<sup>25</sup> In comparison, the SNP factor is 6.2780% while the GPS factor is 6.8509%.

<sup>26</sup> The impact on the Company's requested revenue requirement is to reduce it by approximately \$1.9 million, as shown in Public Counsel's Exhibit No. SC-4. See Exh. No. SC-1CT at 15:5-9.

<sup>27</sup> *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-111048 and UG-111049 (consolidated), Order 08, ¶507 (May 7, 2012).

(regulatory lag).<sup>28</sup> Public Counsel agrees that end-of-period rate base valuation is an appropriate tool to use to address regulatory lag, and we support using end-of-period rate base in this case.<sup>29</sup>

21. The end-of-period valuation allows rate base to be set using actual data, not projections, and is thus consistent with the Commission's modified historical test year. In addition, end-of-period valuation reduces regulatory lag by approximately six months over the average-of-monthly-averages (AMA) method traditionally used by the Commission.<sup>30</sup>

22. The Commission confirmed its preference for the AMA method in a 2009 Avista case:

Except in rare circumstances, rate base is measured as an average over the test year.... While we could consider departing from the conventional method for measuring rate base if presented with good justification and additional steps to conform other test period data to the end-of-period point in time, we are not persuaded on this record that the significant departure the Company proposes is justified.<sup>31</sup>

23. Despite its preference for the AMA method, the Commission has recognized that end-of-period values for rate base may be used to address regulatory lag and attrition.<sup>32</sup> Most recently, the Commission approved use of end-of-period rate base in an expedited rate filing that it approved for Puget Sound Energy.<sup>33</sup> In that case, the Commission reaffirmed its past conclusions on four conditions under which applying end-of-period rate base would be appropriate. Those conditions include (1) abnormal growth in plant, (2) inflation and/or attrition,

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<sup>28</sup> Exh. No. WRG-1T at 2:3-4 and 3:12-15. PacifiCorp offered little explanation in its direct case. Exh. No. JRD-1T at 8:1-11.

<sup>29</sup> Exh. No. JRD-1T at 2:16-19, 4:19 – 5:2, and 8:12 – 10:2.

<sup>30</sup> Exh. No. JRD-1T at 6:1-7.

<sup>31</sup> *WUTC v. Avista Corp., d/b/a Avista Util.*, Docket Nos. UE-090134 and UG-090135 (consolidated), Order 10, ¶ 76 (December 22, 2009).

<sup>32</sup> Exh. No. JRD-1T at 6:8-13, citing *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-111048 and UG-111049 (Consolidated), Order 08, ¶¶ 97, 491 (May 7, 2012).

<sup>33</sup> *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-121697 and UG-121705 (consolidated), UG-130137 and UG-130138 (consolidated), Order 07, ¶¶ 47-48 (June 25, 2013).

(3) regulatory lag, and (4) failure of a utility to earn its authorized rate of return over an historical period.<sup>34</sup> In this case, PacifiCorp cites regulatory lag and failure to earn its authorized return.<sup>35</sup>

24. Use of end-of-period rate base requires corollary adjustments to match the rate base investment to the utility service provided.<sup>36</sup> A major consideration in the 2009 Avista case was whether proper matching adjustments had been made to match rate base with other costs, revenues, and cost of service components.<sup>37</sup> While PacifiCorp's proposal in the current case was originally presented without the necessary matching adjustments, Public Counsel has proposed matching corollary adjustments that should be accepted if the Commission adopts end-of-period valuation for rate base.

25. Public Counsel's witness Mr. Dittmer proposed two necessary income statement adjustments that should be accepted if the Commission adopts end-of-period valuation of rate base. First, Mr. Dittmer proposed to annualize depreciation expense based on end-of-period Plant in Service values. The impact of Mr. Dittmer's adjustment is to raise PacifiCorp's retail jurisdictional revenue requirement by approximately \$520,000.<sup>38</sup> PacifiCorp accepted Mr. Dittmer's adjustment in rebuttal testimony.<sup>39</sup>

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<sup>34</sup> *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-121697 and UG-121705 (consolidated), UG-130137 and UG-130138 (consolidated), Order 07, ¶ 45 (June 25, 2013); *WUTC v. Washington Natural Gas*, Cause No. U-80-111 (September 24, 1981). Washington Natural Gas was permitted to use end-of-period rate base due to the unusual circumstances confronting the utility, including high inflation and decline of service use. The Commission further noted that it did not foreclose a return to using the AMA method once conditions stabilized.

<sup>35</sup> PacifiCorp also uses the term attrition; however, the term does not appear to be used in the context of an attrition adjustment, which is an extraordinary rate case adjustment requiring detailed attrition studies. Rather, PacifiCorp appears to be using the term generally to describe an inability to earn a certain level of return. WRG-1T at 4:1-3; TR. 111:3-7 (Griffith).

<sup>36</sup> *WUTC v. Puget Sound Power & Light Company*, Cause No. U-73-57 (September 27, 1974). The Commission noted that Puget Sound Power & Light Company failed to propose corollary adjustments to reflect end-of-period revenues or customers.

<sup>37</sup> *WUTC v. Avista Corp., d/b/a Avista Util.*, Docket Nos. UE-090134 and UG-090135 (consolidated), Order 10, ¶ 76 (December 22, 2009).

<sup>38</sup> Exh. No. JRD-1T at 10:6-21.

<sup>39</sup> Exh. No. SRM-6T at 10:17 – 11:8.

26. Second, Mr. Dittmer recommended a corollary adjustment to annualize revenue levels associated with end-of-period numbers of Washington-jurisdictional customers being served.

Mr. Dittmer explained:

[W]hen a test-year-end rate base is employed, rate base valuation includes the full investment cost of serving customers taking service at the end of a given test year. Thus, it is appropriate, equitable and consistent to reflect the annual or “annualized” level of revenues that can be expected to collect from customers being served at test-year-end even though a portion of such customers served will have only taken service for a portion of the test year.<sup>40</sup>

27. When a utility’s load is growing, as is usually the situation, the number of customers taking service at the end of any given twelve month period will be higher than the average number of customers served during that entire twelve month period. As a result, an adjustment to annualize revenues for the test year end number of customers can usually be expected to be an upward adjustment to results of operations. In this case, revenues and number of customers have declined during the test period as compared to the test period in PacifiCorp’s last general rate case and are projected to decline further in the rate-effective period.<sup>41</sup>

28. PacifiCorp opposes Public Counsel’s end-of-period revenue annualization adjustment notwithstanding that (1) normalized retail sales are approximately 0.6% lower in this current test year than in PacifiCorp’s last general rate case filing, (2) test year end numbers of customer being served are lower than the average number of customers served throughout the test year, (3) the Company’s own 2013 load forecast predicts further load loss, and (4) adoption of Public Counsel’s test-year-end revenue annualization adjustment would *raise* the retail jurisdictional revenue requirement by approximately \$1.7 million.<sup>42</sup>

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<sup>40</sup> Exh. No. JRD-1T at 11:17-22.

<sup>41</sup> Exh. No. JRD-1T at 13:1-11; Exh. No. JRS-15CX; Exh. No. JRS-16CX.

<sup>42</sup> Exh. No. JRD-1T at 11:11 – 13:11.

29. It appears that PacifiCorp's opposition to Public Counsel's end-of-period revenue annualization adjustment is one of implementation rather than conceptual opposition.<sup>43</sup> Measuring cost of service components, including declining billing determinants, closer to the rate effective date lessens regulatory lag. In light of load declines since PacifiCorp's last general rate case, falling customer counts for significant rate classes occurring throughout the test year, and the Company's own load forecast predicting further load declines, Public Counsel's end-of-period revenue annualization adjustment is reasonable.<sup>44</sup>

30. Public Counsel recommends that the Commission allow end-of-period rate base for PacifiCorp and that it adopt both matching adjustments proposed by Mr. Dittmer.

**B. The Expedited Rate Filing Proposed by Commission Staff should be Considered, with Certain Modifications.**

31. In responsive testimony, Commission Staff proposed an Expedited Rate Filing (ERF) mechanism for PacifiCorp designed to provide timely rate relief related to capital investments and to reduce regulatory lag.<sup>45</sup> Public Counsel generally supports Commission Staff's ERF proposal, but offers certain modifications to more clearly craft expectations and procedures and to ensure appropriate ratepayer protections are established.<sup>46</sup>

32. In addressing Staff's proposal, Mr. Dittmer recommends that PacifiCorp should be required to calculate and post all restating adjustments adopted by the Commission in the last general rate case prior to an ERF proceeding. In other words, if PacifiCorp files an ERF after the current general rate case, it should be required to post all of the restating adjustments adopted by the Commission in this case. Public Counsel's recommendation does not appear to be

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<sup>43</sup> TR. 313:13 – 314:20 (McDougal).

<sup>44</sup> If the Commission believes the calculation can be refined to consider some of the Company's criticism of the adjustment, it could order such refinements and require a compliance filing or require the refinements be presented in the next rate case.

<sup>45</sup> Exh. No. DJR-1T at 10:20 – 11:5.

<sup>46</sup> Exh. No. JRD-5T at 2:1 – 3:4.

inconsistent with Staff's proposal, but it prevents any party from selecting which restating adjustment to use or ignore.<sup>47</sup>

33. PacifiCorp should also be required to provide evidence that a reasonable effort has been made to identify, quantify, and eliminate from the ERF test year cost of service material abnormal, non-operating and non-recurring transactions. Because ERF proceedings are "expedited," this requirement is meant to streamline the review process.<sup>48</sup>

34. Contrary to Staff's recommendation to allow an ERF to exceed a three percent increase over base rates, Public Counsel strongly recommends that any revenue request made through an ERF be limited to no more than three percent. As Company witness Mr. Griffith acknowledged at the evidentiary hearing, a three percent increase is not insignificant.<sup>49</sup>

35. The expedited nature of an ERF contemplates shorter, less thorough review. In light of the review that is typically afforded a general rate case request, use of an ERF proceeding is a significant concession from the consumers' perspective. This concession should be offset with the opportunity to realize smaller rate increases than might be the case under traditional approaches to ratemaking. It is reasonable, therefore, to limit rate relief to no more than three percent of existing base rates.<sup>50</sup>

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<sup>47</sup> Exh. No. JRD-5T at 6:4 – 7:14.

<sup>48</sup> Exh. No. JRD-5T at 8:9 – 9:15.

<sup>49</sup> TR. 123:7-9 (Griffith).

<sup>50</sup> Exh. No. JRD-5T at 10:3-14.



36. In addition, the Commission's rule defines a general rate proceeding as a proceeding in which the amount requested would increase a utility's gross annual revenue by three percent or more.<sup>51</sup> Staff proposes that the filing requirements for general rate proceedings under WAC 480-07-510 be waived in an ERF proceeding where the request is for an increase meeting the definition of a general rate case. However, Public Counsel does not believe this is appropriate. An increase large enough to constitute a general rate case, by nature, requires a certain level of evidence and a comprehensive review by the Commission and parties of earnings, revenues, expenses, and rate of return before increasing rates. As Mr. Dittmer noted, these requirements are essential to the Commission's duty to regulate utilities in the public interest.<sup>52</sup>

37. Other recommendations made by Public Counsel include that PacifiCorp be permitted to develop rate base using an end-of-period valuation in an ERF proceeding,<sup>53</sup> that PacifiCorp be permitted to use a non-calendar test year for an ERF proceeding to remove any restriction regarding the earliest date that such a filing could be made,<sup>54</sup> and that PacifiCorp be limited to no more than two ERF filings before being required to file a general rate case to implement further rate increases.<sup>55</sup> These and the other recommendations made by Public Counsel help ensure that the ERF proceeding is streamlined, efficient, and standardized, while also ensuring reasonable customer protections.

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<sup>51</sup> WAC 480-07-505(1).

<sup>52</sup> Exh. No. JRD-5T at 10:15-22.

<sup>53</sup> Exh. No. JRD-5T at 11:1 – 12:13.

<sup>54</sup> Exh. No. JRD-5T at 12:14 – 13:16.

<sup>55</sup> Exh. No. JRD-5T at 13:17 – 15:2.

**C. Public Counsel's Recommendations Meaningfully Address PacifiCorp's Concerns of Regulatory Lag while Properly Balancing Customer Protections.**

38. PacifiCorp stated in rebuttal that it was “disappointed in the parties’ positions in this case” and criticized the parties for rejecting various proposals made by the Company.<sup>56</sup> PacifiCorp argues that the parties did not do enough to address its “chronic under-earning.” While PacifiCorp did not present a specific attrition adjustment or other potential answers to its challenges, it states that its whole case is its answer to “attrition.”<sup>57</sup>

39. Ironically, the Company’s statement suggests that no alternative tools are necessary to address its claims of under-earning. Irrespective of this, Public Counsel recommends a balanced approach to address PacifiCorp’s stated concerns of under-earning and regulatory lag while also advocating for important customer protections. Public Counsel’s recommendations to approve end-of-period valuation of rate base and to approve an ERF with modifications allows PacifiCorp to enjoy faster recovery of costs, which should help with any “under-earning” the Company may be experiencing, while also ensuring that customers receive the benefits of potentially smaller future rate increases than those resulting from traditional ratemaking.

40. In particular, allowing rate base to be measured at the end-of-period reduces regulatory lag by approximately six months, as discussed above. Additionally, Public Counsel’s position on Commission Staff’s ERF proposal would allow PacifiCorp to file up to two ERFs between general rate case requests with no time limitations regarding when the ERFs would be filed giving the Company ultimate flexibility to time its rate requests to further reduce regulatory lag. Notably, the ability to file two non-calendar test year ERFs after the conclusion of a general rate

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<sup>56</sup> Exh. No. WRG-1T at 2:1-11.

<sup>57</sup> Exh. No. WRG-1T at 7:11 – 8:23; TR. 110:20 -111:7 and 132:22 – 133:19 (Griffith).

case proceeding effectively addresses the concerns regarding power cost recovery, obviating any need for a PCAM.

41. Public Counsel also takes positions related to PacifiCorp's major plant additions that assist with regulatory lag, as discussed below.

#### IV. MAJOR PLANT ADDITIONS

##### A. **The Commission should Adopt a Bright-Line Rule Regarding When the Cutoff for Plant Additions should be with respect to a General Rate Case Proceeding.**

42. PacifiCorp seeks to include in its Washington results of operations amounts for major plant additions made after the test year. In some instances, the plant additions are projected to take place after rates from this proceeding go into effect. In particular, PacifiCorp seeks recovery for three hydro upgrades and an upgrade to its Jim Bridger plant. One of the hydro upgrades, the Merwin Fish Trap, is projected to go into service in February 2014.<sup>58</sup> The Jim Bridger upgrade was completed by May 2013.<sup>59</sup> In its rebuttal testimony, PacifiCorp states that all plant additions other than the Merwin Fish Trap went into service before June 2013.<sup>60</sup>

43. Both Public Counsel and Commission Staff recommend that plant upgrades after a certain cutoff date be excluded. Public Counsel used February 2013, as the cutoff based on data provided by PacifiCorp in discovery. Public Counsel chose the cutoff to distinguish between actual data and projections.<sup>61</sup> The cutoff chosen by Commission Staff is January 11, 2013, the date the Company filed this rate case. Commission Staff is asking the Commission to opine in

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<sup>58</sup> Exh. No. MRT-2T at 2:8-9.

<sup>59</sup> TR. 365:2-5 (Ralson).

<sup>60</sup> Exh. No. SRM-6T at 18:20 – 19:3. Public Counsel requested information about PacifiCorp's plant additions, including information regarding actual and forecasted expenditures. *See* Exh. No. MRT-6C CX, which is a copy of Public Counsel Data Request No. 70 and the Company's response. The Company did not update its response to Public Counsel Data Request No. 70. TR. 324:7-11 (Tallman).

<sup>61</sup> Exh. No. SC-1CT at 22:13 – 25:22; *See* Exh. No. MRT-6C CX at p. 2, item c (PacifiCorp indicates that the cost data provided through February 2013 are actual costs while the costs shown for March 2013 forward are forecasted costs.).

this case on a bright-line rule to create consistency and predictability going forward.<sup>62</sup> Public Counsel believes that a bright-line rule would allow for greater certainty for both the utility and its ratepayers. Therefore, Public Counsel supports Commission Staff's recommendation for a bright-line rule with respect to major plant additions.

**B. The Commission should Remove Forecasted Costs Associated with the Merwin Fish Trap Rate Base Addition because the Costs are Not Known and Measurable.**

44. The Commission offers guidance with respect to pro forma adjustments for plant additions. The Commission employs a modified historic test year approach, which begins with audited results for a recent 12-month period.<sup>63</sup> Those audited results are then modified to reflect changes that occur during the pendency of the general rate case or that will occur during the rate year, so long as substantial evidence of the changes is timely presented.<sup>64</sup> The Commission has adopted this approach to reduce regulatory lag while not "burdening ratepayers with unnecessary costs determined on the basis of the more speculative future test year approach to ratemaking that is used in some jurisdictions."<sup>65</sup>

45. Importantly, the fundamental questions with respect to a pro forma adjustment are (1) whether the proposed change is known and measurable and (2) whether it is offset by other factors (the matching principle).<sup>66</sup> The Commission has noted that "any proposed adjustment that becomes known and measurable more than a few months after the test year is inherently suspect and requires a greater showing, if it is to be allowed."<sup>67</sup>

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<sup>62</sup> TR. 447:14-20 and TR. 448:6-8 (McGuire).

<sup>63</sup> *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-090704 and UG-090705 (consolidated), Order 11, ¶ 23 (April 2, 2010).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at ¶ 25-27.

<sup>67</sup> *Id.* at ¶ 29.

46. Rate base additions typically have offsetting factors associated with them. If the addition is included in rate base without reflecting the offsetting factors, a mismatch is created and the matching principle is violated. “Pro forma rate base adjustments are often not considered to be appropriate because the offsetting factors are extremely difficult to measure.”<sup>68</sup>

47. However, the Commission has allowed pro forma adjustments to rate base to include power production facilities into rates, even when the acquisition occurs after the test period, to match the in-service date with the start of recovery of those investments.<sup>69</sup> The primary reasons the Commission cite in allowing such adjustments are the materiality of the resource acquisition and the offsetting factors are captured through power supply and production factor adjustments.<sup>70</sup>

48. In the 2009 PSE general rate case, the Commission was asked to evaluate pro forma adjustments for rate base that fell “further and further from the end of the test year.”<sup>71</sup> Many of the adjustments were based on forecasts and estimates. The Commission stated that an amount is not measurable if it is an estimate, projection, forecast, or some similar exercise of judgment, even if that judgment is informed judgment.<sup>72</sup>

49. In this case, PacifiCorp is asking the Commission to include in rate base its forecasted investment in the Merwin Fish Trap. The third phase of the investment is not projected to go into service until February 2014, and is not projected to be fully completed until May 2014, a full 20 to 23 months after the end of the historical test year. Because the costs presented by PacifiCorp are forecasted, they do not meet the Commission’s standards for a properly

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<sup>68</sup> *Id.* at ¶ 30.

<sup>69</sup> *Id.* at ¶ 31.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at ¶ 32.

<sup>72</sup> *Id.* at ¶ 26.

supported, known and measurable pro forma adjustment. Therefore, the Commission should exclude the forecasted capital additions related to Merwin Fish Trap from rate base at this time.

**C. The Commission should Exclude the Forecasted Capital Costs for the Jim Bridger Upgrade and Other Capital Projects as Not Known and Measurable.**

50. The Jim Bridger upgrade was not completed until May 2013, five months after PacifiCorp filed its rate case and almost a year after the close of the historical test year. Additionally, data regarding the actual costs, rather than projections or forecasts, was not presented until the Company's rebuttal case.

51. The data available at the time Public Counsel filed its responsive testimony showed only projected amounts for investments from March 2013 forward. PacifiCorp criticizes Public Counsel and Commission Staff as punitively removing from rate base plant that went into service at the time testimony was filed.<sup>73</sup> This criticism is nonsensical when the data available at the time testimony was filed did not support investments made after February 2013. Public Counsel reasonably chose a February 2013 cutoff for rate base additions based on the information that was available at the time of its recommendation.

52. The Commission has recognized that a tension exists between allowing a utility to update its request during the pendency of a rate case and the ability of parties to evaluate the request and file recommendations and evidence. Increases in rate base should be auditable within a reasonable time after a company files a general rate case and "well before the date set for Response Testimony."<sup>74</sup> Indeed, in all but exceptional cases, rate base additions should be known and measurable at the time a company makes its filing to ensure that the parties have adequate time to evaluate the adjustments and consider whether appropriate offsetting factors are

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<sup>73</sup> Exh. No. SRM-6T at 20:20-22.

<sup>74</sup> *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-090704 and UG-090705 (consolidated), Order 11, ¶ 33 (April 2, 2010).

incorporated.<sup>75</sup> The Commission has recognized that such evaluation by parties creates a better quality record on which to make a decision than would otherwise exist.<sup>76</sup>

53. In this case, the actual cost data for the Jim Bridger upgrade was presented in the Company's rebuttal case, after other parties filed their responsive testimony. Because the actual cost data was belatedly presented, the Jim Bridger upgrade is not ripe for inclusion in rate base in this case. Moreover, the Commission does not have the benefit of a full prudence evaluation of the Jim Bridger upgrade.<sup>77</sup> The Commission could reasonably remove the forecasted capital additions for the Jim Bridger upgrade from rate base because the investment was not known and measurable with adequate time for parties to evaluate prior to filing responsive testimony.

54. PacifiCorp's proposal with respect to major plant additions includes projected amounts from March 2013 forward for other capital projects as well, including the Soda Springs Fish Passage, Prospect Automation, and the Swift Fish Collector. The same arguments that apply to the Jim Bridger upgrade apply to these capital projects as well.<sup>78</sup>

## V. NET POWER COSTS

55. Public Counsel proposes four adjustments in its responsive testimony.<sup>79</sup> Two of the adjustments, one relating to the BPA rate increase and one relating to updated power costs, are no longer contested, as reflected in the updated Issues List the parties filed with the Commission on August 23, 2013. The remaining two proposed adjustments, one relating to certain PURPA Qualified Facilities Contracts and one pertaining to certain hedging costs, are discussed below.

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<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> TR. 456:13-19 (McGuire).

<sup>78</sup> The projected amount for each project is detailed in Exh. No. SC-8C, and the amount of Public Counsel's adjustments is detailed in Exh. No. SC-9.

<sup>79</sup> Exh. No. SC-1CT at 6:6 – 7:12.

**A. The Commission should Reject PacifiCorp's Inclusion of Qualified Facilities Contracts in Washington Rates.**

56. In its direct case, PacifiCorp sought to recover in Washington rates \$10.7 million associated with PURPA Qualified Facilities Contracts (QFs) located in Oregon and California.<sup>80</sup>

In its rebuttal case, PacifiCorp updated its net power costs to remove four Oregon QFs, reducing the amount sought with respect to QFs outside of Washington by approximately 10 percent.<sup>81</sup>

Public Counsel recommends that the Commission exclude the cost of QFs from power generators located in Oregon and California. Similar costs were properly excluded in prior rate cases, and PacifiCorp has not demonstrated how the non-Washington QFs benefit Washington customers in this case.

57. Company witness Mr. Duvall argues in his rebuttal testimony that the Oregon and California QFs should be included in Washington rates because they are located in the west control area.<sup>82</sup> Indeed, in Docket UE-050684, the Commission expressed a willingness to allocate all QFs within the west control area despite the resources being classified as "state resources."<sup>83</sup>

58. The WCA methodology for allocating costs was approved for a five year trial period in PacifiCorp's 2006 rate case.<sup>84</sup> Since the adoption of the WCA methodology, PacifiCorp has consistently treated QFs using situs allocation and removing out-of-state QFs from Washington rates.<sup>85</sup> This treatment demonstrates the Company's view that the non-Washington QFs are local

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<sup>80</sup> Exh. No. GND-1CT at 6:3-8.

<sup>81</sup> Exh. No. GND-7CT at 15:12-17.

<sup>82</sup> Exh. No. GND-7CT at 17:2-11, citing *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-061546, Order 08, ¶ 53 (June 21, 2007).

<sup>83</sup> *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-050684, Order 04, ¶ 32 (April 17, 2006).

<sup>84</sup> *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-061546, Order 08, ¶ 43-58 (June 21, 2007).

<sup>85</sup> TR. 295:5-18 (Duvall); Exh. No. SC-1CT at 15:18 – 16:1.



or state specific matters, as observed by Public Counsel witness Mr. Coppola.<sup>86</sup> Without a demonstration that the non-Washington QFs benefit Washington ratepayers, no change in treatment is required. PacifiCorp has not made such a demonstration.

59. First, no power supply study has been conducted to show how Washington load is satisfied from the non-Washington QFs.<sup>87</sup> Mr. Coppola's analysis of the QFs shows that most of the QFs are with small generators that most likely supply the local markets in Oregon and California where they are located.<sup>88</sup> PacifiCorp has not challenged this conclusion.

60. Second, the cost of the non-Washington QFs is higher than other long term purchase power costs for 2014.<sup>89</sup> PacifiCorp responds to Mr. Coppola's cost analysis by arguing that it is not appropriate to compare the avoided cost price in QFs that are several years old with the cost of other purchases in the current NPC study.<sup>90</sup> However, PacifiCorp conceded during the evidentiary hearing that its QFs include both newer and older contracts.<sup>91</sup> Indeed, a close review of PacifiCorp's QFs reveals a significant number of QFs that are quite recent, making clear that the comparison of cost conducted by Mr. Coppola is appropriate.

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<sup>86</sup> Exh. No. SC-1CT at 16:19-22.

<sup>87</sup> Exh. No. SC-1CT at 17:1-7; Exh. No. GND-15CX (PacifiCorp's Response to Public Counsel Data Request No. 117); TR. 296:12-23 (Duvall). While Public Counsel recognizes the Commission's direction regarding direct benefit from each resource in the system, to say that a power supply study is immaterial is also incorrect. In Docket UE-050684, the Commission rejected the notion that each resource must provide a direct electron-flow benefit to customers, but the Commission also recognized that the Company "*must demonstrate tangible and quantifiable benefits to Washington of resources in the system before [the Commission] will include the resources in rates.*" *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-050684, Order 04, ¶ 68 (April 17, 2006)(emphasis added). The Company has treated non-Washington QFs as state-specific resources and is now seeking to change the cost allocation for these resources. One relevant method of analyzing benefit is using a power supply study. The Company simply has not shown that a change is warranted.

<sup>88</sup> Exh. No. SC-1CT at 16:14-16.

<sup>89</sup> Exh. No. SC-1CT at 17:8-15; Exh. No. SC-5C, page 1.

<sup>90</sup> Exh. No. GND-7CT at 21:15-18.

<sup>91</sup> TR. 297:19-23 (Duvall).

51. Furthermore, the proliferation of non-Washington QFs is primarily due to the energy policies in Oregon and California.<sup>92</sup> For example, Oregon has developed policies with respect to distributive generation that have had significant impacts to power costs.<sup>93</sup> The vast majority of the non-Washington QFs PacifiCorp now seeks to include in rates is Oregon QFs.<sup>94</sup> Washington ratepayers should not be asked to pay for the policy determinations made in other states.

62. Public Counsel urges the Commission to remove the cost of the non-Washington QFs from PacifiCorp's NPC.

**B. Hedging Costs Included in PacifiCorp's Calculation of Net Power Costs are not Known and Measurable, but Appear to be Acceptable Based on past Commission Orders.**

63. Public Counsel recommended in its responsive testimony that the Commission remove \$2.98 million of expenses related to hedging costs included by PacifiCorp in its calculation of 2014 NPC on the basis that the expenses are not known and measurable.<sup>95</sup>

64. The Commission has held that mark-to-market adjustments are known and measurable.<sup>96</sup> In the 2009 Puget Sound Energy (PSE) case, the adjustment consisted of the difference between PSE's actual short-term forward gas purchase and the current forward gas price for the rate

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<sup>92</sup> Exh. No. SC-1CT at 18:2-6.

<sup>93</sup> TR. 481:18 – 483:4 (Gomez). Company witness Mr. Duvall argues that Washington, Oregon and California have similar energy policies with respect to distributive generation. TR. 301:23 – 302:8 (Duvall). However, Commission Staff witness Mr. Gomez points out there are differences with respect to where Oregon and Washington are in the process of developing policies and those differences impact how power costs are calculated. TR. 500:10 – 504:14 (Gomez).

<sup>94</sup> TR. 297:4-18 (Duvall); Exh. No. GND-16CX.

<sup>95</sup> Exh. No. SC-1CT at 18:7 – 20:1. On cross examination, PacifiCorp attempted to compare the recommendation made in this case with the recommendations made by Public Counsel during the spring of this year in PGA dockets for the four natural gas companies serving Washington. TR. 523:2 – 525:6 (Coppola). The two situations are inapposite. The recommendations in the PGA dockets related to a prudence review with associated disallowances. The cost of the hedges was concretely known in those dockets. The recommendation here pertained to whether forecasted losses should be included in rates when the cost of the hedge is not known and will not be determined until the hedge is complete. TR. 533:11-24 (Coppola). In neither scenario is Public Counsel arguing that hedging, in and of itself, is improper. TR. 530:17 -531:1 (Coppola).

<sup>96</sup> *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-090704 and UG-090705 (consolidated), Order 11, ¶ 154 (April 2, 2010).

period used in the AURORA model.<sup>97</sup> This calculation seems to be similar to the calculation conducted by PacifiCorp in this case.

65. The cost of hedging includes the forward cost of the commodity, a liquidity premium, a service charge, and ultimately, the difference between the cost of the hedge and the commodity cost at the time the commodity is purchased.<sup>98</sup> In determining the cost of the natural gas and electricity hedges in this case, PacifiCorp calculated the difference between the price of the hedge contracts for 2014, and the forecasted forward prices for the same period as of October 1, 2012. PacifiCorp later updated its calculation at the request of Public Counsel and showed the calculation based on the forecasted forward prices for 2014 as of March 29, 2013.<sup>99</sup> In both calculations, PacifiCorp is estimating the cost of the financial hedges in 2014, with forecasted prices one to two years before the hedge contracts will mature.

66. The difference between the hedge price and the forecasted market price of the commodity can vary significantly from week-to-week or month-to-month even when the commodity price is relatively stable over a longer term.<sup>100</sup> When this mark-to-market difference is measured can produce wildly different values, as demonstrated by Mr. Coppola.<sup>101</sup>

67. Public Counsel recognizes that this issue is likely decided by the 2009 PSE order. However, the record in this case would support an alternate finding, should the Commission deem it appropriate.

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<sup>97</sup> *Id.* at ¶ 142.

<sup>98</sup> The Commission noted that the forward cost of natural gas in power cost projections is an exception to the known and measurable standard. *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-090704 and UG-090705 (consolidated), Order 11, ¶ 26 (April 2, 2010). However, a hedge cost consists of more than simply the forward cost of the commodity.

<sup>99</sup> Exh. No. SC-1CT at 18:8 – 19:5.

<sup>100</sup> TR. 527:4 – 528:14 and TR. 533:25 – 534:17 (Coppola).

<sup>101</sup> Exh. No. SC-1CT at 19:15-19.

## VI. EXECUTIVE COMPENSATION

### A. PacifiCorp's Executive Compensation should be Reduced to a Level Commensurate with the Market Average.

68. PacifiCorp seeks to recover \$146,265 in executive compensation allocated to Washington.<sup>102</sup> However, as described in PacifiCorp's Executive Officer Report, this amount only reflects the compensation paid to the Company's four named executive officers (NEO), which consists of (1) the President and CEO of Rocky Mountain Power, (2) the President and CEO of Pacific Power, (3) the President and CEO of PacifiCorp Energy, and (4) the Senior Vice President and CFO.<sup>103</sup> The compensation for other PacifiCorp executives (director position and higher) is included in general labor costs.<sup>104</sup>

69. In setting NEO compensation amounts, PacifiCorp does not consult with a human resources or executive compensation consultant, nor does the Company set the compensation levels based on analysis of the market average. Rather, NEO compensation is set based on a discretionary determination made by the CEO of MidAmerican Energy Holding Company (MEHC), Mr. Abel.<sup>105</sup>

70. Public Counsel witness Mr. Coppola reviewed the wages for PacifiCorp's top 25 highest paid employees, whose titles consist of "Senior Vice President," "Vice President," and "Director" in addition to the titles for the four NEOs.<sup>106</sup> This group of 25 highest paid employees, which includes PacifiCorp's NEOs, more closely resembles the executives included

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<sup>102</sup> Exh. No. EDW-2 at 7. Exh. No. EDW-2 contains the Executive Officer Report and was filed with the Commission in compliance with Order 07 from Docket UE-111190, which approved a Settlement in PacifiCorp's last general rate case.

<sup>103</sup> Exh. No. EDW-2 at 4, footnote 2.

<sup>104</sup> TR. 377:7-16 (Wilson).

<sup>105</sup> TR. 384:7-25 and 385:15-22 (Wilson); Exh. No. EDW-2 at 4 ("As a privately held corporation, PacifiCorp's compensation committee consists of [MEHC's] Chairman, Mr. Greg Abel."); Exh. No. EDW-4C CX.

<sup>106</sup> Exh. No. SC-1CT at 33:25 - 34:1; Exh. No. SC-15. Mr. Coppola's definition of "executive" as the Company's top 25 paid employees may be conservative. As shown in Exh. No. SC-6C CX, there are total of 181 PacifiCorp employees at the director level and above.

by other Washington utilities in their executive compensation adjustments and more fairly represents PacifiCorp's "executive" employees.

71. The Commission has pointed to the market average as the appropriate level of compensation to include in rates. The Commission noted that it does "not wish to delve too deeply into the Company's management of its human resources and the manner in which it determines overall compensation policy." To that end, the Commission will "inquire only *whether that compensation exceeds the market average*, is unreasonable, and offers benefits to ratepayers."<sup>107</sup>

72. Mr. Coppola's analysis shows that PacifiCorp is seeking to include an amount higher than the market average in rates for its NEOs, and indeed appears to pay the individuals who should likely be included in an executive compensation calculation in an aggregate amount above the market average.<sup>108</sup>

73. Mr. Coppola reviewed the data from MarketPay, which is the compensation survey data PacifiCorp uses to set the compensation levels for its employees, exclusive of its NEOs.<sup>109</sup> Mr. Coppola compared the amounts paid by PacifiCorp to the market average, measured at the 50<sup>th</sup> percentile.<sup>110</sup> Mr. Coppola's analysis shows that all but four of PacifiCorp's top 25 paid employees received compensation above the market average.<sup>111</sup> Based on this analysis, Public Counsel recommended that PacifiCorp's revenue requirement be reduced by \$65,079, which was the amount that the top 25 paid employees were paid above market average on a Washington-

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<sup>107</sup> *WUTC v. PacifiCorp, d/b/a Pacific Power & Light Co.*, Docket UE-100749, Order 06, ¶ 250 (March 25, 2011) (emphasis added). *See also, WUTC v. Puget Sound Energy, Inc.*, Dockets UE-111048 and UG-111049 (consolidated), Order 08, ¶ 122 (May 7, 2012) (noting no dispute over the fact that PSE's compensation is consistent with the market average and citing Docket UE-100749, Order 06, ¶250).

<sup>108</sup> Exh. No. SC-1CT at 34:2-6; Exh. No. SC-15C.

<sup>109</sup> Despite the fact that PacifiCorp does not use MarketPay to set NEO salaries, MarketPay does include market information for salaries for positions equivalent to the NEO positions. *See* Exh. No. EDW-4C CX.

<sup>110</sup> Exh. No. SC-15C.

<sup>111</sup> Exh. No. SC-15C, Column D.

allocated basis.<sup>112</sup> This adjustment would bring PacifiCorp's compensation levels in line with the market average.

74. PacifiCorp responded to Mr. Coppola's recommended adjustment in rebuttal and argued that Mr. Coppola's analysis in assessing the compensation market data was improperly narrow and appeared to select only one data source in MarketPay when matching each position to the market average.<sup>113</sup> Public Counsel asked PacifiCorp to analyze the market average comparison for the top 25 paid positions using the methodology preferred by PacifiCorp. Exhibit No. EDW-5C CX provides this analysis.

75. Exhibit No. EDW-5C CX demonstrates that even when using the Company's preferred comparison methodology, in aggregate, PacifiCorp pays the top 25 paid positions above the market average.<sup>114</sup> Additionally, two of the four NEOs are paid above the market average.<sup>115</sup> Company witness Mr. Wilson agreed with this conclusion at the evidentiary hearing, acknowledging that in aggregate PacifiCorp's executives, defined as the top 25 highest paid employees, are paid above the market average, even when using PacifiCorp's preferred comparison methodology.<sup>116</sup>

76. Public Counsel recommends that the Commission adopt Mr. Coppola's revenue requirement adjustment to bring PacifiCorp's compensation for its top 25 paid employees in line

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<sup>112</sup> Exh. No. SC-1CT at 34:2-16.

<sup>113</sup> Exh. No. EDW-3T at 8:16 - 9:7.

<sup>114</sup> Exh. No. EDW-5C CX at Column H (\$22,764).

<sup>115</sup> Exh. No. EDW-5C CX at Column H, Rows 1 and 4. The individuals listed in Rows 2 and 3 receive compensation below the market mid-point.

<sup>116</sup> TR.381:6 - 382:18 (Wilson).

with the market average. This result is consistent with past Commission orders<sup>117</sup> and supported by the record.

**B. PacifiCorp's MEHC Officer Compensation should Not be Included in Rates**

77. PacifiCorp has allocated \$131,493 of the cash compensation paid to four officers of MEHC to PacifiCorp's Washington jurisdiction. MEHC is the holding company over PacifiCorp and other utilities in the United States. The four MEHC officers are (1) the President and CEO, (2) the Executive Vice President and CFO, (3) the Executive Vice President, General Counsel, and Corporate Secretary, and (4) the Senior Vice President and Chief Administrative Officer.<sup>118</sup>

78. PacifiCorp has not described what role the MEHC officers have in the day-to-day or strategic management of the Company.<sup>119</sup> PacifiCorp has its own full complement of corporate officers "filling every conceivable operating, financial and executive management position a large electric utility can possibly have."<sup>120</sup> This includes President and CEO, General Counsel, CFO, and Strategic and Administrative officers.<sup>121</sup> It is excessive to ask ratepayers to pay for an additional layer of executives.

79. PacifiCorp argued on rebuttal that after the acquisition by MEHC, PacifiCorp was structurally realigned and their top level CEO position was eliminated for a savings of \$750,000.<sup>122</sup> The Washington-allocated amount would be \$47,415.<sup>123</sup> This savings is considerably less compared to the \$131,493 in executive salary expense PacifiCorp now seeks to

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<sup>117</sup> *WUTC v. PacifiCorp, d/b/a Pacific Power & Light Co.*, Docket UE-100749, Order 06, ¶ 250 (March 25, 2011); *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-111048 and UG-111049 (consolidated), Order 08, ¶ 122 (May 7, 2012).

<sup>118</sup> Exh. No. SC-1CT at 34:17 – 35:4.

<sup>119</sup> Exh. No. SC-1CT at 35:5-6.

<sup>120</sup> Exh. No. SC-1CT at 35:6-10.

<sup>121</sup> *Id.*

<sup>122</sup> Exh. No. EDW-3T at 6:2-7.

<sup>123</sup> Using the allocation percentage used by the Company, 6.3220% of \$750,000 is \$47,415. Exh. No. SC-15C shows the allocation percentage used by PacifiCorp on line 38.

include in Washington rates. Moreover, this comparison invalidates the Company's claim that it can leverage the expertise of the MEHC officers at a significantly reduced expense.<sup>124</sup>

80. PacifiCorp also points to title changes of executives in human resources, information technology and risk management as an example of how it leverages the expertise of MEHC officers.<sup>125</sup> However, PacifiCorp presents no analysis to show if and how salaries and compensation were reduced to create savings to the Company and its customers.

81. The roles of the MEHC officers continue to appear duplicative to the responsibilities of PacifiCorp's executive management. As a result, the MEHC officers' compensation allocated to Washington is unjustified. The Commission should remove \$131,493 of labor expense and reduce PacifiCorp's revenue requirement by \$138,121.

## VII. INVESTOR SUPPLIED WORKING CAPITAL

### A. PacifiCorp's Proposed Adjustments to the Investor Supplied Working Capital Methodology should be Denied.

82. Working capital is the amount of cash needed to fund day-to-day operations, primarily for accounts receivable, inventory, materials and supplies, and other pre-paid expenses, net of short-term liabilities or credit provided by vendors or other creditors.<sup>126</sup> When current assets exceed current liabilities, investors are required to supply capital to fund working capital.<sup>127</sup> The utility should earn a return on the capital provided by investors, and in order to achieve that return, the investor-supplied working capital is included in rate base.<sup>128</sup> Working capital can also

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<sup>124</sup> Exh. No. EDW-3T at 6:7-12.

<sup>125</sup> Exh. No. EDW-3T at 6:13-18.

<sup>126</sup> Exh. No. SC-1CT at 27:5-8.

<sup>127</sup> Exh. No. SC-1CT at 27:8-9.

<sup>128</sup> Exh. No. SC-1CT at 27:8-11.



be negative, meaning creditors and vendors are providing funding in excess of operating needs. This occurs when current liabilities exceed current assets.<sup>129</sup>

83. In this case, PacifiCorp has proposed several adjustments regarding which current and non-current assets and liabilities accounts should be included in the Investor Supplied Working Capital (ISCW) calculation. Specifically, the Company has proposed to either include or exclude 45 different general ledger accounts, which impacts approximately seven FERC accounts.<sup>130</sup> The net impact of the proposed changes is to increase the amount of working capital from approximately \$7 million to \$28.5 million, representing a four-fold increase. The revenue requirement similarly increases from nearly \$900,000 to \$3.6 million.<sup>131</sup> As noted by Commissioner Jones during the evidentiary hearing, this is a big adjustment.<sup>132</sup>

84. One justification offered by PacifiCorp for its adjustment to the ISWC methodology is that pension and other post retirement assets exceed liabilities and, therefore, investor funds have been used to fund these net asset balances.<sup>133</sup>

85. The facts, however, do not bear this out. A review of PacifiCorp's ~~2012~~ 2011 SEC Form 10K<sup>134</sup> shows that the Company has recognized on its balance sheet ~~\$1,012~~ \$931 million of pension plan assets and ~~\$1,391~~ \$1,291 million of pension liabilities at December 31, ~~2012~~ 2011. Similarly, for other post retirement benefits, the Company has recognized ~~\$424~~ \$384 million of plan assets and ~~\$632~~ \$575 million of plan liabilities.<sup>135</sup> In total, liabilities exceed assets by ~~\$587~~ \$551 million at December 31, ~~2012~~ 2011. This contrasts with PacifiCorp's claim that assets exceed liabilities by \$237 million. In other words, PacifiCorp's regulatory financial

<sup>129</sup> Exh. No. SC-1CT at 27:11-13.

<sup>130</sup> Exh. No. SC-1CT at 28:1-2; TR. 340:1-17 (Stuver).

<sup>131</sup> Exh. No. SC-1CT at 28:3-7; Exh. No. SC-11.

<sup>132</sup> TR. 471:23 (Zawislak).

<sup>133</sup> Exh. No. DKS-3T at 3:7-14; TR. 336:7 – 338:2 (Stuver).

<sup>134</sup> WAC 480-07-510(7).

<sup>135</sup> PacifiCorp 2011 Form 10-K, page 85.

statements show that it has a negative working capital requirement of \$587 \$551 million with regard to the pension and other post retirement benefit accounts.

86. Additionally, in cross examination, Company witness Mr. Stuver stated that there was no deferred tax impact from derivative assets.<sup>136</sup> Again, the facts do not support the assertion. The Company reported \$46 \$100 million of deferred income tax assets related to derivative contracts.<sup>137</sup>

87. The adjustments to the ISWC calculations are a marked departure from the methodology approved by the Commission in PacifiCorp's 2010 rate case.<sup>138</sup> In that order, the Commission adopted the Staff recommended ISWC methodology. Most, if not all, of the accounts that the Company has proposed to include or exclude from the calculation of working capital existed during the 2010 rate case.<sup>139</sup> The Company's pension and post retirement plan accounts, as well as the derivative accounts, are not new since the ISWC methodology was approved. A review of the Company's 2010 FERC Form 1 and SEC Form 10-K confirms this.

88. PacifiCorp uses the typical FERC chart of accounts to categorize current and non-current assets and liabilities.<sup>140</sup> The base ISCW balance sheet method proposed by Staff and adopted by the Commission in the 2010 rate case uses the conventional classification of current assets and current liabilities to determine working capital with very few adjustments to that basic precept.<sup>141</sup>

89. Furthermore, PacifiCorp includes in its working capital calculation a number of non-cash regulatory and deferred assets and liability accounts.<sup>142</sup> In his rebuttal testimony, Mr. Stuver did

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<sup>136</sup> TR 338:3 – 339:22 (Stuver).

<sup>137</sup> PacifiCorp ~~2012~~ 2011 Form 10-K, page 84-94.

<sup>138</sup> *WUTC v. PacifiCorp, d/b/a Pacific Power & Light Co.*, Docket UE-100749, Order 06, ¶¶ 290-296 (March 25, 2011).

<sup>139</sup> TR. 468:3-7 (Zawislak).

<sup>140</sup> Exh. No. SC-ICT at 28:11-12.

<sup>141</sup> Exh. No. SC-1TC at 28:12-16.

<sup>142</sup> Exh. No. SC-1TC at 29:4-5.

not explain why PacifiCorp would include accounts holding non-cash balances.<sup>143</sup> Accounting conventions do not change the nature of the expenditure. If it is non-cash, it will remain non-cash. As such, inclusion of such account balances in the ISWC is inappropriate, and investors should not earn a return on non-cash balances.

90. The Commission should reject such significant adjustments to a methodology that was approved only two and one-half years ago. The Commission should reject the Company's proposed adjustments to the base ISWC methodology and remove \$2.7 million from the Company's revenue requirement.

### VIII. POWER COST ADJUSTMENT MECHANISM

#### A. The Commission should Reject PacifiCorp's Power Cost Adjustment Mechanism Proposal.

91. PacifiCorp proposes a Power Cost Adjustment Mechanism (PCAM) that would allow for a dollar-for-dollar true-up for increases or decreases in net power costs over or below the base amount included in rates.<sup>144</sup> In addition, PacifiCorp proposes a PCAM devoid of sharing bands and does not propose any adjustment to the cost of capital to reflect the shifting of risk between ratepayers and shareholders.<sup>145</sup> PacifiCorp supports its proposal by asserting that its NPC is a greater portion of its revenue requirement for Washington as a result of the WCA allocation methodology and that it faces sufficient variability in power costs.<sup>146</sup>

92. With respect to whether use of the WCA allocation methodology exposes PacifiCorp to a greater degree of NPC variance, PacifiCorp simply asserts that NPC in Washington is a larger percentage of its revenue requirement than in any other of its operating states. PacifiCorp also

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<sup>143</sup> Exh. No. DKS-3T at 6:3-14.

<sup>144</sup> Exh. No. GND-1CT at 26:3-23; Exh. No. SC-1CT at 41:11-12.

<sup>145</sup> Exh. No. GND-1CT at 26:19-23; Exh. No. SC-1CT at 42:14-16.

<sup>146</sup> Exh. No. GND-1CT at 29:17 – 31:13; Exh. No. SC-1CT at 36:27 – 37:3.

states that it is a net purchaser of power, rather than a net seller, in Washington.<sup>147</sup> PacifiCorp does not establish a causal connection between use of the WCA allocation methodology and its NPC in Washington. Indeed, as Public Counsel witness Mr. Coppola observes, “the WCA is merely an allocation methodology and does not dictate to the Company how, when and from what resource it should generate power.”<sup>148</sup>

93. With respect to variability in power costs, Mr. Coppola’s analysis shows that PacifiCorp is facing declining variability.<sup>149</sup> Public Counsel’s review differed in scope from the review conducted by Commission Staff. Commission Staff determined that PacifiCorp did not meet the threshold question of adequate sharing of risk between shareholders and ratepayers, so their review was more limited.<sup>150</sup> In addition, Staff analyzed results based on the western control area rather than on a Washington-specific basis.<sup>151</sup> Mr. Coppola reviewed Washington-specific variability and closely analyzed trends in variability.

94. A review of PacifiCorp’s Washington-specific NPC variability in recent years challenges PacifiCorp’s assertion that sufficient variability exists to justify a PCAM. Between 2007 and 2009, PacifiCorp did experience significant variability, ranging from 12.5 percent to 20.5 percent from the amount assumed in Commission-approved rates.<sup>152</sup> During the next three years, 2010 through 2012, PacifiCorp’s variability decreased dramatically, ranging from 5.8 percent to 0.8 percent.<sup>153</sup> In 2012, PacifiCorp experienced a variability rate of 0.8 percent, the lowest

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<sup>147</sup> Exh. No. GND-7CT at 56:3 – 57:8.

<sup>148</sup> Exh. No. SC-1CT at 37:22 – 38:1.

<sup>149</sup> Exh. No. SC-1CT at 38:5 – 41:9; Exh. No. SC-16; Exh. No. SC-17; Exh. No. SC-18.

<sup>150</sup> TR. 490:18-23, 494:22 – 497:9 (Gomez).

<sup>151</sup> TR. 497:19 – 498:5 (Gomez).

<sup>152</sup> Exh. No. SC-1CT at 39:15-18; Exh. No. SC-16.

<sup>153</sup> Exh. No. SC-1CT at 39:18-21; Exh. No. SC-16.

variability during the six-year period.<sup>154</sup> Thus, PacifiCorp is experiencing a declining trend in overall variability.

95. In analyzing the causes of variability, the largest variance during the 2007 to 2009 period was caused by wholesale sales and related purchases, while the second largest variance was caused by natural gas fuel generation with both volumes and price contributing to the variance.<sup>155</sup> For both wholesale sales and related purchases and natural gas fuel generation, the most recent three years show markedly decreased variability.<sup>156</sup> Variability caused by use of wind power, cited as a contributor to NPC variability,<sup>157</sup> has similarly experienced a declining trend, and the same is true of hydroelectric generation.<sup>158</sup>

96. Looking forward, Mr. Coppola suggests that volatility in NPC in the near future should be limited.<sup>159</sup> Natural gas prices are expected to remain stable, the percentage of wind power should reach to approximately five percent of PacifiCorp's power resources in 2014, and hydro power also remains a relatively small component of PacifiCorp's portfolio.<sup>160</sup> As a result, PacifiCorp has not demonstrated that a PCAM is necessary, and the Commission should reject its PCAM proposal.

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<sup>154</sup> Exh. No. SC-1CT at 39:20-21.

<sup>155</sup> Exh. No. SC-1CT at 39:22 – 40:10; Exh. No. SC-17; Exh. No. SC-18.

<sup>156</sup> Exh. No. SC-17; Exh. No. SC-18.

<sup>157</sup> Exh. No. GND-7CT at 57:12-14.

<sup>158</sup> Exh. No. SC-1CT at 40:11-12; Exh. No. SC-17; Exh. No. SC-18.

<sup>159</sup> Exh. No. SC-1CT at 40:20.

<sup>160</sup> Exh. No. SC-1CT at 40:20 – 41:9.

**B. PacifiCorp's Proposed Design for a PCAM is Inadequate.**

97. As stated above, PacifiCorp proposes a PCAM that is a full-cost recovery mechanism with a dollar-for-dollar true-up to actual costs. The absence of deadbands or sharing bands, along with the absence of an adjustment to the cost of capital, defies the Commission's clear guidance regarding the proper design of a power cost adjustment mechanism.

98. In Docket UE-050684, the Commission rejected a PCAM proposal from PacifiCorp that included no deadband and a 90/10 sharing band.<sup>161</sup> In its order, the Commission described that a properly designed power cost adjustment mechanism should address certain principles.<sup>162</sup> First, the purpose of a power cost adjustment mechanism is to recognize variability as a result of abnormal weather conditions outside of the utility's control. Second, such mechanisms are short-run accounting procedures that address short-run cost changes resulting from unusual weather. Third, new resources are not included in power cost adjustment mechanisms, but should be considered in general rate cases. Fourth, ratepayers should receive the benefit of lower cost of capital because power cost adjustment mechanisms introduce rate instability for ratepayers and earnings stability for shareholders. Fifth, power cost adjustment mechanisms should not interfere with least cost planning, conservation or other regulatory goals.

99. The Commission also recognized that a properly-designed power cost mechanism should apportion risk equitably between ratepayers and shareholders, and that deadbands and sharing bands are "useful mechanisms, not only to allocate risk, but to motivate management to effectively manage or even reduce power costs."<sup>163</sup>

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<sup>161</sup> *WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-050684, Order 04, Docket UE-050412, Order 03, ¶¶ 71 - 100 (April 17, 2006).

<sup>162</sup> *Id.* at ¶ 91.

<sup>163</sup> *Id.* at ¶ 96.

100. PacifiCorp's current PCAM proposal does not appropriately address most of the principles outlined by the Commission in Docket UE-050684. The stated purpose of PacifiCorp's current PCAM proposal is to address under-recovery of NPC, which contributes to the Company's earnings performance.<sup>164</sup> PacifiCorp does not propose a reduction in its cost of capital. Indeed, PacifiCorp is seeking an increase in its return on equity.<sup>165</sup> And, most glaringly, PacifiCorp refuses to propose deadbands or sharing bands to allow for adequate sharing of risk between ratepayers and shareholders. Essentially, PacifiCorp places all the risk with ratepayers.

101. A properly-designed PCAM would include a deadband reflecting the average variance in NPC experienced by PacifiCorp over the last three years. In this case, PacifiCorp has experienced an average variance of approximately three percent.<sup>166</sup> It should include sharing bands that allow for a 50/50 sharing of any increases and decreases between ratepayers and shareholders. This sharing reflects a symmetrical approach to sharing risk while also providing PacifiCorp with a strong incentive to control costs.<sup>167</sup> A properly-designed power cost adjustment mechanism would also set a refund/surcharge trigger that reflects a significant variation in power costs, while not being so high as to never be reached.<sup>168</sup>

102. An additional inadequacy of PacifiCorp's proposal is that it fails to allow sufficient review of deferrals under the PCAM.<sup>169</sup> As Mr. Coppola testifies, a robust annual review process would enable a thorough prudence review of all cost items included in PacifiCorp's

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<sup>164</sup> Exh. No. GND-7CT at 54:10-12.

<sup>165</sup> Exh. No. SCH-10T at 1:20-21.

<sup>166</sup> Exh. No. SC-1CT at 42:20 -- 43:1.

<sup>167</sup> Exh. No. SC-1CT at 43:1-4.

<sup>168</sup> Exh. No. SC-1CT at 43:4-6.

<sup>169</sup> Exh. No. SC-1CT at 42:10-14.

power cost deferrals. This review should occur annually, regardless of whether a refund or surcharge has been triggered.<sup>170</sup>

103. PacifiCorp proposes a PCAM with a design that does not comport with the Commission's guidance on power cost adjustment mechanisms. As such, it should be rejected.

## IX. PUBLIC COMMENT

104. The Commission held two public comment hearings on this matter. The first public comment hearing was held in Yakima, Washington, on July 15, 2013, and the second was held in Walla Walla, Washington, on July 16, 2013. The Commission heard comments from representatives from the community action agency Blue Mountain Action Counsel as well as from individual customers. Jerome Parmentier, who testified at the Yakima hearing, expressed concerns with reasons behind the rate request:

I also have a problem with being told, and this has been said outside here today, that we are to pay for decreases in revenue from overall loads. Roughly translated to me uneducated in the power business that because I have decided to insulate my home or use LED lights or turn off my lights or change how I air condition that because I'm making those decisions to decrease my bill intentionally that I now have to participate in re-compensating the utility for the lack of the load across myself and the rest of us that have made these intelligent choices.<sup>171</sup>

105. Customers submitted a total of ninety-one written comments to the Commission and to Public Counsel, and the overwhelming majority of those comments were in opposition to the rate request.<sup>172</sup> One customer, Loran Kitts from Yakima, expressed the following reaction, common among many customers:

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<sup>170</sup> Exh. No. SC-1CT at 43:6-11.

<sup>171</sup> TR. 051:11-20.

<sup>172</sup> Exh. No. B1 (Public Comment Exhibit).



Some place this should stop or many seniors such as myself will no longer have electricity. I'm proud that I can pay my obligations in full and on time. I refuse to apply for any charity. My social security benefit increased \$978 per month last month increase. Last winter I had a power bill over \$260 one month after trying to live and use power very conservatively. My arithmetic tells me that represented 26% of my income for February 2013.<sup>173</sup>

106. The Washington Farm Bureau provided comments on behalf of its Yakima County members, representing the impact of the rate increase on farmers in PacifiCorp's Washington service territory:

We have heard comments from our Yakima County members that a proposed rate increase for Pacific Power will have negative impacts on them....farmers are typically price takers, not price setters. Any increase in input costs—including costs for electricity—has a direct and negative impact on a farmer's bottom line. Agriculture already exists on tight profit margins, and additional rate increases harm the viability of one of this state's leading agricultural counties....also disappointing is the apparent pattern of rate increases by Pacific Power. Last year Yakima County Farm Bureau members expressed outrage over a similar rate increase. This year's proposal compounds a multi-year problem.<sup>174</sup>

107. As is evident from these comments, the rate increase requested by PacifiCorp will have an overwhelmingly negative impact on the Company's residential customers, as well as other customer groups and the communities in which they reside.

#### **X. RATE SPREAD AND RATE DESIGN SETTLEMENT**

108. PacifiCorp, Commission Staff, Public Counsel, Boise White Paper, and The Energy Project entered into a partial settlement to resolve all issues concerning rate spread and rate design in this case. When presented with a settlement, the Commission asks (1) whether any aspect of the proposal is contrary to law, (2) whether any aspect of the proposal offends public

<sup>173</sup> Exh. No. B1 (Loran Kitts, PDF File "Comment Received by UTC," p. 29).

<sup>174</sup> Exh. No. B1 (Washington Farm Bureau, PDF File "Comments Received by UTC," p. 6).

policy, and (3) whether the evidence supports the proposed elements of the settlement as a reasonable resolution of the issue.<sup>175</sup> The Commission will approve the settlement without condition, approve the settlement subject to conditions, or reject the settlement.<sup>176</sup>

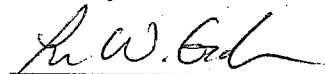
109. The parties in this case have presented a reasonable settlement that is supported by the record. Public Counsel recommends that the Commission approve the settlement without conditions.

## XI. CONCLUSION

110. This general rate case presents a number of important issues to the Commission for consideration. Public Counsel recommends that the Commission reject the electric revenue increase proposed by PacifiCorp and establish rates supported by the record. Public Counsel respectfully requests that the Commission adopt Public Counsel's recommendations discussed above to set fair, just, reasonable, and sufficient rates for PacifiCorp's customers.

DATED this 1<sup>st</sup> day of October, 2013.

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<sup>175</sup> *WUTC v. Avista Corp., d/b/a Avista Util.*, Docket Nos. UE-090134 and UG-090135 (consolidated), Order 10, ¶ 21 (December 22, 2009).

<sup>176</sup> *Id.* at ¶ 22.