BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	
Complainant,	)	DOCKET NOS. UE-140762, UE-140617, UE-131384, and UE-140094 (consolidated)
v.	)	
PACIFIC POWER & LIGHT COMPANY,	)	
Respondent.	)	

REPLY BRIEF

OF

BOISE WHITE PAPER, L.L.C.

February 3, 2015

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I. INTRODUCTION

1 Pursuant to WAC § 480-07-390 and Prehearing Conference Order 04 of the Washington Utilities and Transportation Commission ("WUTC" or the "Commission") in these consolidated dockets, Boise White Paper, L.L.C. ("Boise") hereby submits this reply brief in response to the initial post-hearing briefs filed by Pacific Power & Light Company ("Pacific Power," "PacifiCorp," or the "Company")[1/] and other parties to these proceedings. Boise maintains that its recommended $35.4 million reduction to the Company's overall rate increase requests is appropriate, including Pacific Power's general rate request and three consolidated deferral petitions, based on the record in this case and the arguments contained in briefing.

II. ARGUMENT

A. Pacific Power's Cost of Capital Arguments are Unsupported and Misleading

2 Pacific Power attempts to discredit Mr. Gorman's careful analyses of the Company's cost of equity and capital structure, but its claims mischaracterize the evidence presented by Mr. Gorman. Moreover, the Company frames its cost of capital arguments by contending that "the Commission 'should strive for equality of treatment' and 'may not treat similar situations in dissimilar ways'"[2/]—a principle which Pacific Power continually contradicts in arguing for special cost of capital treatment.

1/ See Post-Hearing Brief of Boise ("Boise Brief") at n.1.

2/ Pacific Power's Opening Brief ("Pacific Power Brief") at ¶ 12 (citations omitted).

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

1. Pacific Power's Return on Equity ("ROE") Recommendation Is Based upon Improper Rationale and Unreliable Modeling

a. The Company Ignored the Principle of Gradualism

3 In seeking a 50 basis point increase to its currently authorized ROE (from 9.5% to 10.0%), the Company claims that its recommendation is based on several factors.[3/] Conspicuously absent from the Company's rationale, however, is any indication that it ever considered the "principle of gradualism" in asking for such a significant ROE increase, even though the Commission stated in the Company's most recent general rate case ("GRC") that this principle should apply and be considered in setting the ROE.[4/] Indeed, Company witness Mr. Strunk acknowledges that the rationale behind his recommended 10.0% ROE "does not include the principle of gradualism."[5/] Thus, just as the Company has chosen to ignore Commission findings on several other issues decided against the Company in the 2013 GRC,[6/] Pacific Power's ROE recommendation also fails to recognize this recent and explicit Commission holding.

4 In the 2013 GRC, the Commission actually found sufficient justification for authorizing a 9.4% ROE for the Company.[7/] Notwithstanding, the Commission ultimately authorized the current 9.5% ROE due to a determination that the principle of gradualism militated against a 40 basis point reduction from the Company's prior ROE of 9.8%.[8/] While Boise does not suggest that the Commission established a bright-line "gradualism" demarcation between 30 and 40 basis points when setting this ROE, plainly Mr. Gorman's recommendation

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3/ Pacific Power Brief at ¶ 3.
4/ WUTC v. PacifiCorp, Docket No. UE-130043, Order 05 at ¶¶ 63, 70 (Dec. 4, 2013) ("2013 GRC Order 05").
5/ Strunk, Exh. No. KGS-37CX (Company Response to Boise Data Request ("DR") 2.3).
6/ Boise Brief at ¶¶ 3-9.
7/ 2013 GRC Order 05 at ¶ 70.
8/ Id.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

for a 9.3% ROE, a 20 basis point reduction, is safely within prior Commission parameters—while Mr. Strunk's recommended 50 basis point increase seems well outside.[9/]

b. Mr. Gorman's Positions Are Mischaracterized and Improperly Critiqued

5 The Company levels numerous charges against the veracity and consistency of Mr. Gorman's ROE testimony, in addition to misrepresenting his positions. First, by claiming that the differences are not material between the proxy groups used by witnesses in this case,[10/] the Company ignores an important difference between Mr. Gorman's ROE analysis and Mr. Strunk's. Specifically, Mr. Gorman excluded four different companies used in Mr. Strunk's proxy group due to their involvement in significant merger and acquisition activity.[11/] This exclusion, of one sixth of the Company's original proxy group, should not be glossed over as immaterial.

6 Pacific Power also claims that Mr. Gorman's current recommendation for a reduced ROE is undercut by his recommendation for a 9.2% ROE in the 2013 GRC (since his presently recommended 9.3% ROE is ten basis points higher).[12/] Notwithstanding, Mr. Gorman's current recommendation for a 20 basis point reduction to the Company's presently authorized ROE fully accords with the principle of gradualism, and finds support as a

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9/ Boise supports Staff's recommended 9.0% ROE as within Mr. Gorman's recommended range. Gorman, Exh. No. MPG-1T at 46:1-2. Staff states that a 50 basis point reduction would uphold the principle of gradualism. Initial Brief on Behalf of Commission Staff ("Staff Brief") at ¶ 23. In keeping with the Commission's 2013 GRC Order, however, adopting Mr. Gorman's conservative ROE recommendation of a 20 basis point reduction to ROE would seem more in keeping with principles of gradualism than either Staff's or Pacific Power's recommendation for a 50 basis point swing.

10/ Pacific Power Brief at ¶ 15.

11/ Gorman, Exh. No. MPG-1Tr at 22:8-12.

12/ Pacific Power Brief at ¶ 23.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

conservative proposal falling squarely within a range of reasonable returns.[13/]

7 Moreover, the Company improperly critiques Mr. Gorman's position that industry- authorized ROEs are decreasing, thereby justifying a reduction to Pacific Power's ROE.[14/] First, even the Company concedes that "[i]ndustry data indicates that the average authorized ROE for January through September 2014"—a period encompassing the majority of this GRC—has decreased.[15/] Further, any argument by the Company that it should be afforded special treatment, counter to this industry trend, undermines Pacific Power's overarching contention that the Commission "may not treat similar situations in dissimilar ways."[16/]

8 The Company supports its recommended increase to ROE by arguing that "the risk associated with the future interest rates has increased."[17/] Then, Pacific Power inappropriately portrays Mr. Gorman as supporting the Company's position by stating: "Mr. Gorman acknowledges that 'there is additional risk in long-term interest rate markets created by [the] Federal Reserve stimulus policy.'"[18/] But, Mr. Gorman specifically testified at hearing that he considered Federal Reserve policy in developing his recommendations.[19/] Thus, the Company's reweighting of Mr. Gorman's analyses to derive an ROE range exceeding 10% is completely improper;[20/] conversely, but for Mr. Gorman's accounting for Federal Reserve policy in his original weighting, the Company would merit an ROE even below the 9.3% recommended by Mr. Gorman.

[13/] Gorman, Exh. No. MPG-1Tr at 46:1-2.
[14/] Pacific Power Brief at ¶ 23.
[15/] Id. at ¶ 25.
[16/] Id. at ¶ 12.
[17/] Id. at ¶ 26.
[18/] Id. at ¶ 29 (quoting Gorman, Exh. No. MPG-1Tr at 39:17-18).
[19/] Gorman, TR. 346:23-347:6.
[20/] Pacific Power Brief at ¶ 29.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

9 Pacific Power also critiques an alleged party recommendation: 1) to "mechanically" apply established methodology; 2) to reduce ROE; 3) in response to current interest rate markets—while simultaneously claiming that the Federal Energy Regulatory Commission ("FERC") recently "increased ROE" for ISO New England "to account for the increased risk associated with current interest rates."[21/] The Company not only mischaracterizes Mr. Gorman's position on this point, but Pacific Power completely misrepresents the actual facts of that case.

10 As the Company conceded in the record, the 10.57% ROE authorized by FERC was a *57 basis point reduction* from ISO New England's previously approved ROE of 11.14%.[22/] The Company also acknowledged that FERC based this significant ROE reduction on data from an October 2012 through March 2013 time frame[23/]—a far cry from the Company's claim that "FERC increased ROE to account for the increased risk associated with *current* interest rates."[24/] Finally, even if it were true, the Company's whole argument against allegedly "mechanistic" recommendations by other parties would again undermine its own principle that the Commission "should strive for equality of treatment" and "not treat similar situations in dissimilar ways."[25/]

11 Pacific Power improperly lumps Mr. Gorman in with other parties again by making the blanket assertion: "The parties recommend that the Commission authorize an ROE at the low end of the reasonable range."[26/] Mr. Gorman's recommended 9.3% ROE is exactly at

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[21/] Id. at ¶ 30.
[22/] Strunk, Exh. No. KGS-38CX (Company Response to Boise DR 17.1(a)).
[23/] Id. (Company Response to Boise DR 17.1(b)).
[24/] Pacific Power Brief at ¶ 30 (emphasis added).
[25/] Id. at ¶ 12.
[26/] Id. at ¶ 31.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

the midpoint of the reasonable range.[27/] Additionally, the Company's failure to ever reference Mr. Gorman's testimony, despite three paragraphs expressly devoted to elaborating upon this charge, demonstrates the impropriety of such a blanket statement.

12 A further allegation that Mr. Gorman's credibility has been undermined by "inconsistent recommendations" is also without merit.[28/] Pacific Power finds fault in Mr. Gorman's recommendation for a 9.3% ROE in Washington because he recommended a 9.4% ROE in Utah.[29/] As Mr. Gorman explained at hearing, "in setting a fair return on equity, there may be unique circumstances to that jurisdiction that would be taken into consideration."[30/] Applying this principle, Mr. Gorman further explained that he recommended a slightly higher ROE in Utah because—unlike Washington—"they use an actual capital structure to set the overall rate of return. So I didn't make an adjustment to that capital structure because it's inconsistent with the general practice of Utah."[31/] Mr. Gorman's reasonable consideration of jurisdictional differences establishes that, contrary to the Company's wrongful claim, he does not "mechanically" apply ROE recommendations.[32/]

13 Notwithstanding, the Company still critiques Mr. Gorman by alleging that there is "no principled basis for Mr. Gorman to recommend a lower ROE and ROR in Washington than in other PacifiCorp states."[33/] Mr. Gorman explained at hearing, however, that while it "[g]enerally" follows that the Company's risk is the same across all states, there is an important exception: "if there are specific regulatory mechanisms or changes that are unique to a specific

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27/ Gorman, Exh. No. MPG-1Tr at 46:1-2.
28/ Pacific Power Brief at p. 15, ¶ 42.
29/ Id. at ¶ 12.
30/ Gorman, TR. 230:13-15.
31/ Id. at 230:22-231:3.
32/ Pacific Power Brief at ¶ 30.
33/ Id. at ¶ 42.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

jurisdiction, the risk impact of that regulatory mechanism could be considered in estimating a fair return for that jurisdiction."[34/] In fact, the Company is fully aware of this exception, reasoning on brief that, "to the extent that the Company's credit rating reflects risk, the risk is *generally* the same in every state."[35/] Hence, it is disingenuous for the Company to argue that there is "no" principled basis for Mr. Gorman's careful and nuanced treatment of unique factors affecting each state in which the Company does business.

14 Finally, the Company misapplies Mr. Gorman's testimony in the PSE remand case, improperly using it to indicate support for Mr. Strunk's recommendation for a 28 basis point equity adder.[36/] The Company's argument, however, presupposes "a credit downgrade of one to two notches" for PacifiCorp if the hypothetical capital structure is maintained.[37/] As noted by Mr. Gorman, the Company already enjoys an enviable position in comparison to comparably (or even better) rated utilities, thereby obviating the need for any equity adders.[38/] Moreover, the comparison of Mr. Gorman's PSE remand testimony to this case is an apples-to-oranges endeavor—e.g., the Company relegates to a footnote the decoupling adjustment that was inextricably tied to Mr. Gorman's analysis in the remand.[39/] Lastly, considering the Company's own guiding principle, that the Commission "may not treat similar situations in dissimilar ways," the natural corollary of this principle would nullify Pacific Power's argument; that is, the Commission "may not treat dissimilar situations in similar ways."[40/]

[34/] Gorman, TR. 228:8-16.
[35/] Pacific Power Brief at ¶ 42 (emphasis added).
[36/] Id. at ¶ 42.
[37/] Id. at ¶ 44.
[38/] Boise Brief at ¶¶ 49-50.
[39/] Pacific Power Brief at ¶ 44 & n.103.
[40/] Id. at ¶ 12.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

2. The Company's Currently Authorized Capital Structure Should Be Maintained

a. PacifiCorp Equity Levels Will Continue to Decline

15 Pacific Power claims that its proposed capital structure, including 51.73% common equity, "is consistent with the equity levels that the Company expects for the foreseeable future."[41/] The record in this case does not support such a claim. The Company agreed at hearing with Mr. Gorman's testimony—i.e., that its equity ratio is being managed toward 50%, and the Company's present and future dividend payment policy to parent Berkshire Hathaway Energy ("BHE") virtually guarantees that PacifiCorp will continue to lower its equity ratio.[42/]

16 Further, the Commission noted at hearing that rating agency reports state that PacifiCorp is expected to "manage the equity to around 50 percent after it had accreted," and that in so doing these reports use carefully chosen terms which should not be interpreted as "sloppy writing."[43/] In other words, Company witness Mr. Williams' shifting rationalization is not credible that, "I think 51.4, 51.7, at least in my mind, is around 50 percent,"[44/] because it treats the estimate of "around 50 percent" in an overly expansive fashion. In any event, if one were to treat the reports as sloppy writing in this manner, the Commission's presently authorized equity ratio of 49.1% is significantly closer to 50% than the figures proposed by Mr. Williams.[45/]

41/ Id. at ¶ 46.
42/ Boise Brief at ¶¶ 47-48.
43/ Commissioner Goltz, TR. 328:17-329:3.
44/ Williams, TR. 328:1-2.
45/ Commissioner Goltz, TR. 328:3-4.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

b. Company Attempts to Discredit Mr. Gorman's Testimony Are Unfounded

17 Pacific Power wrongly contends that, unlike the 2013 GRC, Mr. Gorman now concedes that the Company's credit rating is based on actual capitalization, not hypothetical.[46/] To begin, this allegation is completely inaccurate, given that Mr. Gorman testified at hearing that credit analysts know and understand that hypothetical capital structures are used by regulatory agencies.[47/] Nevertheless, in support of this erroneous claim, the Company cites to a portion of Mr. Gorman's testimony in the last Utah rate case.[48/] As Mr. Gorman testified at hearing—and as the Company is fully aware—Utah uses actual capital structure to set the overall rate of return, such that it was appropriate for Mr. Gorman to present his recommendations there consistent with the general practice of Utah.[49/]

18 Nonetheless, in Utah, Mr. Gorman recommended a 9.4% ROE in conjunction with the Company's proposed capital structure, an ROE which would "preserve the Company's financial integrity and credit standing."[50/] Mr. Gorman did not testify that the Company's credit rating is based simply upon actual capital structure, as the Company wrongly implies. Similarly, it is misleading for the Company to argue that the Commission's use of a hypothetical capital structure is met with disapprobation by the investment community.[51/] The Company itself acknowledges that PacifiCorp has maintained an A minus credit rating despite years of equity variance, including periods in which the Commission has established *excess* equity.[52/]

46/ Pacific Power Brief at ¶ 52.
47/ Gorman, TR. 312:19-24.
48/ Pacific Power Brief at ¶ 52, n.124.
49/ Gorman, TR. 230:22-231:3.
50/ Gorman, Exh. No. MPG-24CX at 2:29-31.
51/ Pacific Power Brief at ¶ 52.
52/ Boise Brief at ¶¶ 48-49.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

19 Pacific Power claims that it is "too simplistic" for Mr. Gorman to contend that PacifiCorp will not suffer a ratings downgrade, with the Company arguing that its debt ratio is already lower than comparable utilities, and reasoning that such comparisons "are not even used by S&P."[53/] The record refutes these claims, however, including material in the Company's own filings.

20 Mr. Gorman noted both at hearing and in testimony that S&P credit reports have recognized the current and foreseeable decline in equity (and corresponding increase in debt) caused by PacifiCorp's dividend payment policy to BHE; and, that by maintaining a stable rating outlook for the Company, S&P appears unconcerned by such increasing debt and the significant movement toward hypothetical levels in equity.[54/] Also, as noted by the Commission at hearing, Mr. Williams filed a credit report from Moody's as an exhibit to his direct testimony, in which carefully chosen wording from the agency signified that PacifiCorp would be managing its equity to around 50% after it had accreted to a level that was "too high."[55/]

21 The Company's attempt to discredit Mr. Gorman, based on a proposed 50% equity cap before FERC, is also unfounded.[56/] First, the Company quotes FERC for a principle which undercuts Pacific Power's own maxim that "the Commission should strive for equality of treatment."[57/] Specifically, FERC concluded: "it is reasonable to assume that individual utilities are subject to different risk factors, have different investment needs, and may pursue different

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53/ Pacific Power Brief at ¶ 53.

54/ Gorman, TR. 312:3-13; Boise Brief at ¶ 47.

55/ Commissioner Goltz & Williams, TR. 326:24- 329:3; Williams, Exh. No. BNW-6 at 3.

56/ Pacific Power Brief at ¶ 54. As to the accusation that the FERC decision was one "which Mr. Gorman failed to produce in discovery," Mr. Gorman explained at hearing that he did not file testimony in support of his adjustment in that case, and did not produce it in discovery because it concerned a complaint that had not yet been set for hearing. Gorman, TR. 211:11-17.

57/ Pacific Power Brief at ¶ 12 (internal quotations and citation omitted).

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

business strategies, all of which could affect capitalization decisions."[58/] Moreover, the FERC principle also undercuts the Company's argument for a high equity ratio, based upon repeated comparisons to other utilities with ratios above 49.1%.[59/]

22 In any event, at hearing Public Counsel witness Mr. Hill explained the Company's misplaced reliance on FERC's equity principles to discredit Mr. Gorman. Mr. Hill pointed out that FERC has created a significant problem by failing to constrain equity ratios, allowing ROEs of up to 60% and harming ratepayers considerably through inflated rates.[60/] More specifically, FERC has essentially allowed companies to set their own rates by simply relying on book value capital structures, rather than prescribing limits to the upper end of capital structures as the Commission does in Washington, and as Mr. Gorman advocated for with FERC.[61/]

23 Finally, there is no basis for adoption of hypothetical debt costs in conjunction with a continuation of hypothetical capital structure. The Company again bases such a request on the unsubstantiated claim that credit agencies will downgrade PacifiCorp if the Commission maintains the hypothetical capital structure.[62/] As Mr. Gorman testified at hearing, however, credit analysts know and understand about regulatory use of hypothetical capital structures,[63/] and the Company's rating has been stable for years despite hypothetical equity ratios being set both over and below actual levels.[64/]

[58/] Id. at ¶ 54 (quoting Assoc. of Bus. Advocating Tariff Equity, *et al.* v. Midcontinent Indep. Sys. Operator, Inc., *et al.*, 148 F.E.R.C. ¶ 61,049, ¶ 194 (Oct. 16, 2014)).
[59/] Id. at ¶ 50.
[60/] Hill, TR. 324:1-7.
[61/] Id. at 324:11-17.
[62/] Pacific Power Brief at ¶ 55.
[63/] Gorman, TR. 312:19-24.
[64/] Boise Brief at ¶¶ 48-49.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

3. A Washington Jurisdictional Rate of Return ("ROR") of 7.20% Adequately Supports PacifiCorp's Investment Bond Rating

24 Mr. Gorman demonstrates that an ROR of approximately 7.20% will support PacifiCorp's credit rating, and ensure continued access to low cost capital.[65/] Although the Company argues that a recently authorized PacifiCorp ROR of 7.41% in Wyoming "supports an increase in Pacific Power's Washington ROR,"[66/] the Company fails to mention that the Wyoming Public Service Commission ("Wyoming PSC") actually *reduced* PacifiCorp's authorized return by 26 basis points (from the 7.67% ROR approved in the Company's last GRC).[67/] In comparison, Boise recommends a more modest reduction in Washington of just 16 basis points (from the Company's currently authorized ROR of 7.36%). Likewise, the Company's announcement of a recently authorized ROR in Utah of 7.57% fails to mention that the previously approved ROR in Utah was 7.68%[68/]

25 Moreover, the Company inappropriately offers a block quote from Staff witness Mr. Twitchell, as if he spoke for all parties on ROR: "I think it's a general point of agreement that [the Company] hasn't been earning that fair return."[69/] To be clear, Boise is no more in agreement with Mr. Twitchell's judgment on Company earnings than Boise is with his assessment that a 150% rate allocation comports with the concept of gradualism.[70/] Any allegation of "chronic" under-earnings experienced by the Company is attributable to the

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65/ Id. at ¶ 51.
66/ Pacific Power Brief at ¶ 9.
67/ Re Application of Rocky Mountain Power for Approval of a General Rate Increase, Wyoming PSC Docket No. 20000-405-ER-11 *et al.*, Order Approving Stipulation at App. A, ¶ 14 (Oct. 8, 2012).
68/ Compare Pacific Power Brief at ¶ 9, with Re Application of Rocky Mountain Power for for Authority to Increase its Retail Electric Utility Service Rates, Utah PSC Docket No. 11-035-200 *et al.*, Order at p. 10 (Sept. 19, 2012).
69/ Pacific Power Brief at ¶ 11 (quoting Twitchell, TR. 642:2-8).
70/ Twitchell, TR. 635:8-19.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

Company itself,[71/] such that Boise strongly disagrees with Mr. Twitchell's "feel[ing] that there is a strong public interest in the Company being able to meet its costs."[72/]

26 Finally, the Company offers up a bullet point list of "evidence" purportedly demonstrating that PacifiCorp cannot maintain its current credit rating if party capital recommendations are adopted.[73/] First, the Company complains that Boise has recommended a rate decrease, which is no longer the case.[74/] Second, Pacific Power complains that parties assume the Company will earn its authorized ROR, which the Company alleges to be unsupported by historical earnings. In light of Pacific Power's failure to carry its burden of proof demonstrating that "chronic" under-earnings are not attributable to Company mismanagement, however, this complaint should hold no weight.[75/] Lastly, the claim that Mr. Gorman has failed to use all the ratios used by S&P to establish the Company's credit rating ignores probative testimony of Mr. Gorman concerning S&P's continued stable outlook for the Company.[76/] In sum, the Company does not sufficiently prove that the adoption of Mr. Gorman's capital recommendations will even threaten, never mind actually result, in a ratings downgrade.

71/ Boise Brief at ¶¶ 11-17.
72/ Pacific Power Brief at ¶ 11 (quoting Twitchell, TR. 642:2-8).
73/ Id. at ¶ 56.
74/ Boise Brief at p. 11.
75/ Id. at ¶¶ 11-17.
76/ Gorman, TR. 312:3-13.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

B. The Commission Should Adopt Boise's Recommended Adjustments to Revenue Requirement

1. Pacific Power Has Not Carried Its Burden in Justifying Pro-forma Capital Additions

27 The Company improperly claims that, in its direct case, it provided "detailed cost information" supporting proposed pro-forma capital additions.[77/] For 25 of the 30 additions initially proposed, however, this "detailed" information consisted merely of spread sheet line items on a single exhibit page.[78/] Moreover, although the Company states that it updated this information through discovery,[79/] the record actually contains a mere list of discovery attachments allegedly supporting these additions.[80/] But, the Company is correct in accurately stating that it included only "narrative descriptions" for these proposed additions—i.e., consisting only of a single paragraph each, and never supplemented later in the record.[81/] Taken together, this level of support fails to satisfy the Commission's used and useful and known and measurable standards.

28 Notwithstanding, for the 17 capital addition projects still proposed for inclusion in rates, the Company claims that "the final costs are known and measurable."[82/] To support this claim, the Company cites to a rebuttal exhibit.[83/] The problem with this claim of "final" known and measurable costs is that the record plainly demonstrates that the Company continued to make numerous and significant adjustments to these "final" costs *after* the rebuttal stage.[84/] Thus, the

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77/ Pacific Power Brief at ¶ 123.
78/ Siores, Exh. No. NCS-3 at p. 8.4.2.
79/ Pacific Power Brief at ¶ 123.
80/ Boise Brief at n.117.
81/ Id. at ¶ 54.
82/ Pacific Power Brief at ¶ 123.
83/ Id. at ¶ 123 & n.326.
84/ Boise Brief at ¶ 55; Initial Brief of Public Counsel ("PC") at ¶ 48.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

decided lack of analytical rigor displayed by the Company throughout these proceedings continues to justify Boise's recommendation that the Company's capital addition costs should be rejected.[85/]

29 Finally, Pacific Power makes specific arguments in defense of the Jim Bridger Unit 1 cooling tower and the Union Gap Substation Upgrade.[86/] First, Boise does not accept the Company's claim that "[t]here is no uncertainty regarding the final costs" of the Bridger cooling tower, given the state of continued cost fluctuations extending into September 2014.[87/] This period of cost uncertainty is especially troubling due to the Company's statement that the project "went into service in May 2014."[88/]

30 Regarding the Union Gap project, Boise notes that Company testimony regarding the alleged need for the first sequence of work *on an independent basis* did not appear until Pacific Power's rebuttal case; in the Company's direct filing, a plain emphasis is placed only upon the first sequence being completed to make room for the second and third sequences.[89/] This suggests that later company testimony was merely a post-hoc rationalization in response to Mr. Mullins' critical analysis. As to the Company's claim that it affirmed completion of the first sequence of work at hearing,[90/] Pacific Power has still not demonstrated that this sequence was used and useful; specifically, Company witness Mr. Vail testified in pre-filed rebuttal testimony that such work had not yet been completed by the November 14, 2014 cut-off date for used and

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85/ Boise Brief at ¶¶ 53-58 (excepting the Merwin Fish Collector, which Boise does not oppose).
86/ Pacific Power Brief at ¶¶ 126-27.
87/ Id. at ¶ 126; See Mullins, Exh. No. BGM-4C (Company Responses to PC DRs 54 and 54 1st Revised, and Attachments PC 54-1 and 54-1 1st Revised).
88/ Pacific Power Brief at ¶ 126.
89/ Compare Vail, Exh. No. RAV-1T at 3:1-6:18, with Vail, Exh. No. RAV-2T at 1:16-5:19.
90/ Pacific Power Brief at ¶ 126.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

useful service.[91/]

2. The Company Has Not Demonstrated Conditions Warranting Use of End of Period ("EOP") Rate Base

31 The Company alleges that use of EOP rate base is appropriate if one or more conditions discussed by the Commission are satisfied, including: 1) usage as a means to reduce regulatory lag; and 2) the failure of a utility to earn its authorized rate of return.[92/] Boise maintains that neither of these conditions justifies a second authorization of EOP rate base for the Company's upcoming rate year.

32 As explained on brief, the Commission granted a special exception for EOP rate base in the 2013 GRC to address regulatory lag in an attempt to break the pattern of almost continuous rate cases being filed by Pacific Power.[93/] The Company has not fulfilled its end of the bargain, however, in burdening ratepayers with yet another annual rate filing just months after receiving this special EOP rate grant. Accordingly, there is no need to continue to mitigate the effects of regulatory lag, given that the Company has shown no indication that it will not file another GRC in 2015. Next year's rate filing will ameliorate these concerns.

33 The Company also makes the claim: "It is undisputed that the Company has historically under-earned in Washington."[94/] Contrary to the Company's claim, however, Boise does dispute Pacific Power's "chronic" under-earning claims.[95/] Moreover, to the extent that the Company is under-earning, the Commission should not reward the Company for its own

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91/ Boise Brief at ¶ 57.
92/ Pacific Power Brief at ¶ 145.
93/ Boise Brief at ¶¶ 59-60.
94/ Pacific Power Brief at ¶ 145.
95/ Boise Brief at ¶¶ 11-17.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

mismanagement.[96/]

3. The Commission Should Deny the Use of a Proposed Non-labor Operations and Maintenance ("O&M") Escalator

34 The Company has not demonstrated that its proposed O&M escalator should be accepted by the Commission. While Pacific Power claims that the IHS Global Insights indices upon which the escalator is based are "widely-used and reliable,"[97/] the Wyoming PSC recently rejected their use due to explicit concerns with the escalation factor's accuracy.[98/] This is especially noteworthy given testimony appearing to support the idea that such an escalator *is* appropriate, at least in states employing a future test year.[99/] But, based upon the determination of the Wyoming PSC, which uses a future test year for the Company, [100/] there is now additional weight to the argument against the Company's proposed escalator, regardless of test year methodology. Finally, the Company's claim that Boise has relied on a similar escalation factor to support its recommended EIM adjustment is inaccurate,[101/] as explained by Mr. Mullins at hearing when differentiating pro-forma power cost statements and historical accounting data.[102/]

96/ Id.
97/ Pacific Power Brief at ¶ 135.
98/ Re Application of Rocky Mountain Power for Approval of a General rate Increase, Wyoming PSC Docket No. 20000-446-ER-14, Order at ¶ 174 (Dec. 30, 2014) ("Wyoming PSC Order").
99/ Pacific Power Brief at ¶ 136.
100/ Wyoming PSC Order at ¶ 45.
101/ Pacific Power Brief at ¶ 136.
102/ Mullins, TR. 720:1-7.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

C. The Commission Should Adopt Boise's Recommended Adjustments to Net Power Costs

1. Pacific Power's Misleading Arguments Do Not Justify Inclusion of the Full Costs of Oregon and California Qualifying Facilities ("QFs") in Washington Rates

35 As an initial matter, the Company's arguments concerning QF allocation are presently being considered on appeal of the 2013 GRC. Hence, the legal propriety and practical wisdom of reconsidering largely recycled appeal arguments in the present proceeding is doubtful. Similarly, Boise and Staff have cited authority indicating that the Commission need not determine QF allocation issues, given the comprehensive findings reached in the 2013 GRC.[103/] To this end, the Company's insistence on relitigating failed arguments (including "[t]he single most significant NPC issue in" the 2013 GRC),[104/] puts an unnecessary strain on Commission and party resources (not to mention added ratepayer burden, once Company legal expenses are charged to the public) that would justify Commission exercise of such authority.[105/]

a. The Company Misapplies Federal and State Authority Regarding QFs

36 Pacific Power quotes federal authority to assert that QF pricing must ensure that consumers are paying the same amount as if a utility had "purchased energy elsewhere."[106/] By definition, market rate pricing for out-of-state QF power under WCA situs allocation satisfies

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[103/] Boise Brief at ¶ 18 & n.27; Staff Brief at ¶¶ 65-70.

[104/] 2013 GRC Order 05 at ¶ 97.

[105/] Cf. Administrative Law Judge ("ALJ") Moss, TR. 672:2-5 (addressing Public Counsel: "counsel never hesitates to file papers with us"). Any burden implicated by non-Company parties filing responsive motions and other "papers" with the Commission pales in comparison to the time, money, and human resources expended on relitigating numerous issues determined against the Company in the 2013 GRC.

[106/] Pacific Power Brief at ¶ 68 (quoting Indep. Energy Producers Ass'n v. Cal. Pub. Utils. Comm'n, 36 F.3d 848, 858 (9th Cir. 1994)).

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

that requirement. Conversely, all of the Company's proposals to increase Washington rates by attributing some or all of the above-market costs for out-of-state QFs do not.

37 The Company's reliance on a 1983 Commission decision does not further the argument that all out-of-state QF costs should be included in Washington rates.[107/] The Company frames the relevance of this case as including: 1) an Idaho QF; and 2) a determination by the Commission to disallow recovery of amounts exceeding the avoided cost price.[108/] What the Company does not mention, however, is that the Commission established the appropriate avoided cost price for the Idaho QF as "the purchase of power from the Bonneville Power Administration."[109/] In other words, the cost Washington ratepayers were responsible to pay for out-of-state QF power in 1983 is the same as in 2014—market priced power.

38 The Company is wrong to assert that no party has challenged the avoided cost prices of Oregon or California QFs in this case, or "claimed that they are excessive or illegal."[110/] To begin, no party has made such challenges or claims for the obvious reason that they do not concern the Commission or any other party to this proceeding. As the Commission explained in the 2013 GRC, avoided cost pricing is determined by the policy makers in those states, and should be borne by the ratepayers in those states.[111/] Next, this argument misses the point clarified in So. Cal. Edison that "[a] state may, *through state action*, influence what costs are incurred by the utility."[112/] No one contends, simply because Oregon and California QF costs are higher than in Washington, that these costs are excessive or illegal. The point is that "through

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[107/] Id. at ¶ 70 (citing WUTC v. Wash. Power Co., Cause No. U-83-14, Second Suppl. Order, 1983 Was. UTC LEXIS 11 (Nov. 9, 1983)).

[108/] Id.

[109/] Cause No. U-83-14, Second Suppl. Order, 1983 Was. UTC LEXIS 11 at *25.

[110/] Pacific Power Brief at ¶ 71.

[111/] 2013 GRC Order 05 at ¶¶ 111, 113.

[112/] So. Cal. Edison Co., *et al.*, 71 F.E.R.C. ¶ 61,269, 62,080 (June 2, 1995) (emphasis added).

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

state action" each state has leeway to implement its own environmental policy. Again, this completely agrees with the Commission's own explanation of how states implement the Public Utility Regulatory Policy Act of 1978 ("PURPA").[113/]

b. Situs Allocation and Market Pricing Are Legal and Fair

39 The Company complains that "situs assignment results in Washington customers receiving QF power-related benefits for which they do not pay."[114/] This claim is patently false, as demonstrated by the Commission's plain statement that, under WCA situs allocation, "Washington ratepayers remain responsible for paying for all the power they use, but any power attributed to an Oregon or California QF [] is priced at market rates."[115/] To this end, there is no basis for Pacific Power's contention that, to be consistent with PURPA, situs allocation "requires that each state consume only the QF electricity generated in that state."[116/] Such a conclusion only follows from the erroneous premise that Washington ratepayers do not pay for out-of-state QF power used.

c. WCA Methodology Does Not Violate the Dormant Commerce Clause

40 The Company's dormant Commerce Clause arguments are unfounded.[117/] WCA situs allocation does not discriminate or unduly burden interstate commerce because it "has nothing to do with the physical flow of power across state boundaries."[118/] Moreover, the Commission is not in any way differentiating between in-state and out-of-state economic interests in a discriminatory manner. Quite the contrary, WCA methodology is premised on the

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113/ 2013 GRC Order 05 at ¶ 102.
114/ Pacific Power Brief at ¶ 72.
115/ 2013 GRC Order 05 at ¶ 98.
116/ Pacific Power Brief at ¶ 72. Pacific Power's argument here is also in tension with the dormant Commerce Clause arguments presented in briefing. Id. at ¶¶ 78-82.
117/ Id. at ¶¶ 78-82.
118/ 2013 GRC Order 05 at ¶ 98.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

notion that Oregon and California policy makers should be free to determine renewable energy polices, and implement PURPA in their respective states, just like Washington.[119/] Hence, in practice, the WCA methodology allows these other states to impose "significantly higher" QF costs upon customers in those states, all without Washington interference.[120/]

d. The Commission Should Reject Pacific Power's Alternative QF Proposals

41 The Company argues that "re-pricing the out-of-state QF PPAs at Washington avoided cost prices will also result in customer indifference."[121/] Pacific Power does not even attempt to explain the glaring problems raised by such a claim. For starters, raising Washington rates by about $8 million without any additional customer benefits will not "result in customer indifference." Washington ratepayers already pay for out-of-state QF power used, and to simply add cost to that same power consumption does not benefit anyone but shareholders.

42 Additionally, the Company's alternative proposal to "re-price" out-of-state QF contracts at rates *lower* than approved in Oregon and California would implicate the same Commerce Clause arguments that the Company levels toward the Commission—e.g., the unconstitutional interference with utility contracts in other states.[122/] Even further, Mr. Mullins testified to the impropriety of merely re-pricing out-of-state QF contracts, since doing so unjustifiably presumes that all such contracts would have been entered into under Washington avoided cost pricing in the first place.[123/] In other words, many of these QF contracts may never have been executed under Washington jurisdiction at all due to lower avoided cost rates here;

[119/] Id. at ¶¶ 111-112.
[120/] Id. at ¶ 113.
[121/] Pacific Power Brief at ¶ 83.
[122/] Id. at ¶ 80.
[123/] Mullins, Exh. No. BGM-1CTr at 30:6-12.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

accordingly, it would be improper for the Commission to back into these contracts now, and essentially assert jurisdiction by "re-pricing" them. Moreover, the numerical disparity between three Washington QFs and a dozen California QFs,[124] despite Washington comprising a much larger percentage of the Company's service territory, gives ample witness to this point.

43 Pacific Power's claim, that no party challenged its Washington re-pricing "methodology,"[125] is both misplaced and inaccurate. It is misplaced because it ignores the universal opposition to the re-pricing approach in this case, such that no party (especially Boise, who is not funded by the state) needed to spend additional resources parsing the fine details of it. It is inaccurate because Boise, Staff, and Public Counsel all oppose the Company's IHS escalator adjustment, and this escalator is incorporated into the re-pricing "methodology."[126] Indeed, the Company's insertion of an escalator into out-of-state QF contracts is, in the Company's own words, "inconsistent with PURPA, which prohibits a utility from re-opening QF PPA prices."[127]

44 Pacific Power is also inconsistent in proposing a "load decrement" approach in which the retail load of Oregon and California "is reduced to account for load served by the native QF."[128] Reducing load according to state boundaries would implicate the same Commerce Clause issues the Company decries, as when pointing out that a commission cannot preclude a generator from selling power outside of state boundaries, or place burdens on transactions in interstate commerce, since electric transmission "is interstate commerce."[129]

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[124] Duvall, TR. 440:16-17.
[125] Pacific Power Brief at ¶ 84.
[126] Duvall, Exh. No. BR-3 at 2.
[127] Pacific Power Brief at ¶ 85.
[128] Id. at ¶ 86.
[129] Id. at ¶ 79 (quoting Pub. Utils. Comm'n of R.I. v. Attleboro Steam & Elec. Co., 273 U.S. 83, 86 (1927), *abrg'd on other grounds by* Quill Corp., 504 U.S. 298)).

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

45 Moreover, Pacific Power makes an incorrect claim that the load decrement approach "ensures that the full impact of treating QF PPAs as situs resources is reflected in Washington revenue requirement."[130/] This statement is based on a premise that is either false or which demonstrates significant utility mismanagement—i.e., the Company's claim that "Washington pays for less QF power than it consumes."[131/] The Commission has plainly stated that Washington ratepayers are responsible for all out-of-state QF power used.[132/] Thus, if Washington truly is paying for less QF power than is being consumed, then only the Company is responsible for failing to collect payment which the Commission has allowed.

2. Boise's Energy Imbalance Market ("EIM") Adjustments Are Appropriate and Satisfy Commission Standards

46 The Company characterizes Mr. Mullins' EIM adjustments as "[s]peculative," requesting that the Commission reject the imputation of any and all EIM customer benefits for an indefinite period.[133/] As Mr. Mullins testified at hearing, however, his EIM proposals are formulated in express consideration of the Commission's high standard for analytical rigor.[134/] Moreover, given the Company's complete failure to so much as attempt a calculation of EIM benefits—benefits which were decisively acknowledged by the Wyoming PSC, little more than a month ago—Boise has been left to bear the full burden of analysis in this case.[135/]

130/ Id. at ¶ 86.
131/ Id.
132/ 2013 GRC Order 05 at ¶ 98.
133/ Pacific Power Brief at ¶¶ 87-88.
134/ Mullins, TR. 742:17-24.
135/ Id.; Wyoming PSC Order at ¶ 184.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

a. Pacific Power's Lack of Diligence Does Not Justify the Rejection of Customer Benefits in Rates

47 The Company complains that customer benefits are "highly uncertain" because the EIM "is the first market of its kind in the West."[136/] At hearing, ALJ Moss indeed noted that, "with respect to the EIM, we're getting into some relatively uncharted territory."[137/] But, such novelty does not excuse the Company's utter lack of effort in assessing EIM benefits during the rate period. In accord with ALJ Moss's analogy to "uncharted territory," Boise demonstrated on brief that Mr. Duvall has irresponsibly approached the EIM as a ship captain testing unfamiliar straits, yet without the help of available navigational aids.[138/]

48 In this light, the natural corollary of the Commission's "known and measurable test" should apply against the Company due to its lack of diligence. In order for estimated cost projections to be included in rates, the Commission requires "a high degree of analytical rigor."[139/] The corollary here is that, for the Company to justifiably contend that estimated benefits are unreasonable, there should at least be some showing of rigorous analysis attempted; that is, before the Company arrives at the shareholder-friendly, customer-hostile conclusion that an estimate of benefits is "impossible."[140/] Mr. Mullins has demonstrated that such analytic rigor *is* possible in his detailed and careful testimony filed in this case, and Mr. Mullins did so without the sure guarantee of ratepayer funding that Mr. Duvall and other Company analysts enjoy.

136/ Pacific Power Brief at ¶ 88.
137/ ALJ Moss, TR. 367:1-2.
138/ Boise Brief at ¶ 80.
139/ 2013 GRC Order 05 at ¶ 205 (quoting WUTC v. PacifiCorp, Docket Nos. UE-090704 and UG-090705 (consolidated), Order 11 at ¶ 26) (April 17, 2006)).
140/ Duvall, Exh. No. GND-4T at 30:22-23.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

b. Boise's Interregional Dispatch Savings Adjustment Is Appropriate and Does Not Double Count Benefits

49 The Company contends that, concerning the interregional dispatch savings adjustment proposed by Mr. Mullins: "The benefits Boise seeks to impute are already captured in GRID."[141/] This claim is demonstrably false, given the Company's unambiguous statement that it "excluded both the costs and potential benefits of the EIM."[142/] The Company cannot have it both ways—maintaining that it has excluded EIM benefits due to uncertainty, then claiming that benefits should not be imputed because they are already included in the Company's system.

50 In any event, Pacific Power's claim that Boise's adjustment relies upon assumptions that have not yet materialized is also unsupportable.[143/] The Company alleges that the transfer capability between the California Independent System Operator ("CAISO" or "Cal-ISO") and PacifiCorp at the California-Oregon Intertie ("COI") does not allow for 5-minute dynamic transfers, as envisioned in the E3 report, but only 15-minute static transfers.[144/] But, as Boise demonstrated on brief, Mr. Duvall admitted at hearing that he actually had no knowledge of how CAISO treats transfer capability on the COI.[145/]

c. Boise's Within-hour Dispatch Benefits Adjustment Is Not Undermined by the E3 Report

51 Ironically, after attacking Boise for alleged reliance upon the E3 report in all its other adjustments, the Company argues that the only Boise adjustment "not based explicitly on

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[141/] Pacific Power Brief at ¶ 93.
[142/] Id. at ¶ 88.
[143/] Id. at ¶ 94.
[144/] Id.
[145/] Boise Brief at ¶ 80.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

the E3 report is" undermined by the E3 Report.[146/] Boise maintains that Mr. Mullins' within-hour dispatch benefits adjustment is appropriate, despite the Company's sudden reliance on potential offsets noted in the E3 report (and in place of any actual Company analysis even attempting to verify these potentials). In fact, Mr. Mullins explicitly calculated his adjustment on the "conservative" side, which should allay any concerns over potential offsets.[147/]

3. Boise's Network Integration and Transmission ("NT") Service Adjustment Calculation Is Accurate

52 Boise and Pacific Power agree that Mr. Mullins' proposed NT Service adjustment is appropriate, but disagree as to its calculation.[148/] As explained on brief, Mr. Mullins addressed Pacific Power concerns by reducing his proposed adjustment to $294,513 on a Washington basis.[149/] Given the treatment of Company concerns by Mr. Mullins, there should be no further disagreement by the Company on the appropriate adjustment figure. The Company has already agreed that Boise's understanding is correct, regarding the appropriate billing factor for NT Service provided by the Bonneville Power Administration ("BPA") in its Open Access Transmission Tariff ("OATT").[150/] Thus, with the Company conceding such a fundamental point, Pacific Power cannot credibly object that Boise's adjustment calculations are "particularly unreasonable" in light of BPA rates.[151/] In other words, the Company cannot at the same time agree that Boise's calculations are appropriately based upon BPA billing factors under the OATT, yet also allege that the results of these calculations are unreasonable.

146/ Pacific Power Brief at p. 37, ¶ 99.
147/ Mullins, Exh. No. BGM-1CTr at 43:21.
148/ Pacific Power Brief at p. 46.
149/ Boise Brief at ¶ 82 & n.184.
150/ Mullins, Exh. No. BGM-1CTr at 45:1-9 (citing Exh. No. BGM-4C at 57 (Company Response to Boise DR 10.5)).
151/ Duvall, Exh. No. GND-4T at 65:18-21.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

4. The Company Has Failed to Demonstrate that It Is Not Double Counting Inter-hour Integration Costs

53 Rather than concede duplicative wind integration costs, the Company contends that its costs are now effectively doubled because it accounts for differences between forecasting and actual dispatch.[152/] Yet, as demonstrated by Mr. Mullins, the Company has now included virtually the same integration costs *within* its Generation Regulation Initiative Decision ("GRID") model that had tradionally existed *outside* of the GRID model—only the Company has not removed these outside GRID costs as a consequence of this change.[153/] The fact that the Company has not demonstrated any legitimate customer benefits corresponding to a near doubling of its wind integration charges cannot be deemed as anything but improper double-counting.

54 Likewise, the Company claims that it has included new inter-hour costs for load integration "in the last two cases."[154/] This claim is demonstrably false, relying only on a single paragraph within Mr. Duvall's testimony which alleges only that the Company included the same charge in 2011.[155/] As explained by Mr. Mullins, however, the Company's failure to include this charge in the 2013 GRC not only invalidates the Company's argument on brief, but it also renders the new charge invalid, since it is unsupported in violation of Commission rule.[156/]

[152/] Pacific Power Brief at ¶ 122.
[153/] Boise Brief at ¶ 86.
[154/] Pacific Power Brief at ¶ 122.
[155/] Id. at ¶ 122, n.320.
[156/] Boise Brief at ¶ 87.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

5. The Record Provides Ample Proof to Merit Exclusion of the Chehalis Outage from Outage Rate Calculations

55 The Company's first argument for inclusion of the Chehalis outage in outage rates is based upon witness testimony from the Company's 2010 GRC, recommending that an outage be excluded as anomalous only if it exceeds 28 days (the Company makes this argument because the 2013 Chehalis outage lasted for a shorter period).[157/] The problem with this argument is that Boise is recommending the exclusion of the 2013 Chehalis outage on the basis that it was the third catastrophic outage within a decade, all due to the same transformer bushing design failure.[158/] The ultimate duration of the outage is immaterial.

56 Pacific Power next critiques Mr. Mullins for drawing conclusions without the same experience or training in plant operation and maintenance as Company witness Mr. Ralston.[159/] As even the Company concedes, however, Mr. Mullins based his opinions upon the findings of engineering experts contained within the 2013 Chehalis outage root cause analysis.[160/] Accordingly, Mr. Mullins has drawn his conclusions in a reasonable manner, just as all other parties and the Commission itself will do.

D. The Commission Should Reject the Company's Proposed Renewable Resource Tracking Mechanism ("RRTM")

57 The Company argues that its proposed "RRTM is narrowly focused on resources that are eligible for compliance with Washington state energy policy."[161/] The record contradicts this characterization, specifically in regard to the inclusion of market price changes unrelated to

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157/ Pacific Power Brief at ¶ 114. Pacific Power cites to the testimony of a witness for the Industrial Customers of Northwest Utilities ("ICNU"), which is not a party to this case. See infra n.165.

158/ Boise Brief at ¶ 89.

159/ Pacific Power Brief at ¶¶ 115-116.

160/ Id. at ¶ 115; Mullins, TR. 749:14-17.

161/ Pacific Power Brief at ¶ 105.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

renewable portfolio standard ("RPS") compliance.[162/] The Company argues: "Market variability must be accounted for in the RRTM," due to a contention that it is an integral component of variability associated with wind resources.[163/] But, this sort of reasoning only exemplifies one of the critical flaws identified by Mr. Mullins within the RRTM, namely, the impossibility of accurately carving-out RPS power costs, given that they are the product of complex and offsetting interactions within the Company's portfolio.[164/]

58 The appropriate solution to this "ripple effect" dilemma is not to draw an arbitrary line at market prices or even wind resources; rather, a fully integrated power cost adjustment mechanism ("PCAM") is the only potential solution to the RRTM's carve-out problem. Further, the past "support" alleged by the Company from other parties, for "narrowly tailored cost-recovery mechanisms" like the RRTM, consists solely of a 2007 citation concerning a party not involved in this case, regarding an "alternative" recommendation which also supported a significant ROE decrease, and accompanying testimony primarily seeking *rejection* of a Company proposal comparable to the RRTM.[165/]

59 The Company's assertion that the RRTM will mitigate cost-recovery concerns, "due to the inherent variability of many renewable resources,"[166/] was challenged at hearing by the Commission. Specifically, Mr. Duvall was asked why renewables merited special treatment, given the assumption under Washington law that the Company is entitled to recover all prudently

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[162/] Boise Brief at ¶¶ 91, 95.

[163/] Pacific Power Brief at ¶ 108.

[164/] Boise Brief at ¶¶ 91, 94.

[165/] Pacific Power Brief at ¶ 109 & n.284. ICNU is not a party to these proceedings, having never been granted a petition to intervene in any of the four consolidated dockets. See WAC § 480-07-355(3). Company counsel's cross examination statement that, "in fact … they are a party to this proceeding because they filed to intervene in one of the deferral dockets" is a gross misstatement of law and implicates questionable practices in asking a witness to agree to an improperly stated legal proposition. Mullins, TR. 710:12-14.

[166/] Pacific Power Brief at ¶ 105.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

incurred costs associated with any prudently incurred investment.[167/] Mr. Duvall's response—"I guess we don't recover all of our prudently incurred costs under the current regulatory scheme in Washington"[168/]—suggests only a failure in Company management, not a need for special renewable resource treatment.

60 To this point, the Company's argument that its need for an RRTM is supported by excess wind forecasting—allegedly resulting in NPC under-recovery of $34.8 million since 2007[169/]—also suggests gross mismanagement. Mr. Mullins demonstrates that the standard deviation of wind output in recent years has been modest, or less than half the standard deviation of hydro output.[170/] While the Company seeks to justify its forecasting track record by quoting testimony from a Boise witness in the 2013 GRC (who noted that wind "resources *can* display a high level of variability"),[171/] the analysis presented by Mr. Mullins shows plainly that wind output has not varied significantly for a considerable period.

61 The Company contends that the RRTM will address "significant variability outside the Company's control,"[172/] but the Commission clarified in the 2013 GRC that a "PCAM that would protect the Company from any risk of under-recovery, even that due to ordinary variability," is not appropriate.[173/] While the Company styles the RRTM as "complementary to a properly designed PCAM,"[174/] Pacific Power's attempt to mitigate costs purportedly "outside the Company's control" means that it cannot sidestep the "critically

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167/ Commissioner Danner, TR. 445:9-13.
168/ Duvall, TR. 445:14-16.
169/ Pacific Power Brief at ¶ 106.
170/ Boise Brief at ¶ 93.
171/ Pacific Power Brief at ¶ 107 (quoting Duvall, Exh. No. GND-4T 57:12-16) (emphasis added).
172/ Id. at ¶ 105.
173/ 2013 GRC Order 05 at ¶ 172.
174/ Pacific Power Brief at ¶ 104.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

important elements that provide an incentive for the Company to manage carefully its power costs and that protect ratepayers in the event of extraordinary power cost excursions that are *beyond the Company's ability to control*."[175/]

E. The Company's Deferral Petitions Do Not Meet Commission Standards and Should Be Rejected

62 Nothing presented by the Company on brief establishes that the Company's deferral requests satisfy Commission standards necessary to justify deferred accounting—i.e., the demonstration that costs are both "extraordinary" and "due to factors beyond the Company's control."[176/] Accordingly, Boise continues to recommend that the Commission reject all three Pacific Power deferral requests.

1. Pacific Power Has Not Demonstrated that the Colstrip Outage Resulted in Extraordinary Costs Beyond the Company's Control

63 The Company has made unsubstantiated claims as to the demonstration of measurable and extraordinary replacement power costs related to the Colstrip outage. According to Pacific Power, "Boise ignores the *extensive* evidence presented in the Company's direct case detailing the actual replacement power costs incurred by the Company."[177/] To be clear, the "extensive" evidence cited by the Company consists of a single exhibit page—one page, printed

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[175/] 2013 GRC Order 05 at ¶ 170 (emphasis added).

[176/] E.g., Re PacifiCorp, Docket No. UE-020417, Third Suppl. Order at ¶ 5 (Sept. 27, 2002); WUTC v. PacifiCorp, Docket Nos. UE-050684 and UE-050412, Order 04/03 at ¶ 305 (April 17, 2006) (combining both standards in affirming that deferred accounting is "warranted in extraordinary *circumstances*") (emphasis added); see also WUTC v. PacifiCorp, Docket No. UE-100749, Order 10 at ¶ 21 & n.19 (Aug. 23, 2012) (quoting the 2002 order to explain the purpose of deferred accounting); Re PacifiCorp, Docket Nos. UE-020417 and UE-991832, Sixth/Eighth Suppl. Order at ¶ 29 (July 15, 2003) (finding insufficient nexus between causation and cost to justify deferred accounting, even if the "extraordinary" nature of costs might "arguably" provide a rationale for deferral).

[177/] Pacific Power Brief at ¶ 119 (emphasis added).

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

from a spreadsheet, with no more granularity than the declaration of summary monthly totals.[178/]

2. The Company's Arguments Do Not Justify Approval of the Declining Hydro Deferral

64 The Company's attempted justification for the Declining Hydro deferral request is flawed in at least two primary respects. First, the Company's continuing claims of declining hydro conditions are inaccurate and misleading. The Company claims that "variance had more than doubled" in the 35 days between the filing of the parties' responsive testimony and the Company's rebuttal case.[179/] The Company does not cite to any authority that would substantiate this statement or specify in which direction this "variance" went, but Mr. Mullins' cross-answering testimony demonstrates that in October 2014 variance had increased, significantly—only in the direction of *further exceeding* normal levels.[180/]

65 Second, the Company complains that it "would have no way to recover the costs associated with low hydro generation" without the deferral.[181/] Even assuming the Company had proven declining hydro conditions exist, which it did not, the fact that it has no viable cost recovery mechanism in place is due only to Pacific Power's own refusal to accept a mechanism with appropriate ratepayer safeguards.[182/] The Commission should reject the Declining Hydro petition as an improper attempt to bypass Commission standards.

[178/] Id. at ¶ 119 & n.310. Additionally, this single page of "extensive" evidence cited is labeled "UE-131389," a non-existent docket—providing further proof of the Company's disregard for careful accounting detail in making this deferral request.

[179/] Id. at ¶ 121.

[180/] Mullins, Exh. No. BGM-8T at 23, Figure 1.

[181/] Pacific Power Brief at ¶ 121.

[182/] Boise Brief at ¶¶ 7-9, 14, 99.

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

3. The Commission Should Not Allow Special Ratemaking Treatment for the Merwin Fish Collector

66 The Company states that the Merwin Fish Collector ("Merwin") went into service in March 2014, just two months before the Company filed the present GRC.[183/] Boise continues to maintain that special deferred accounting rate treatment is not appropriate for Merwin, given the benefits already afforded the Company if the project is found prudent and included in rate base.[184/] The short interim period between Pacific Power rate cases (less than five months) does not justify an expansion of the traditionally limited use of deferred accounting before the Commission.[185/]

67 Further, Boise does not agree with the Company's claim that "[t]he Commission regularly allows recovery of a reasonable carrying charge on deferred amounts, either for the benefit of customers or the utility."[186/] Customers do not "regularly" see the benefits of deferrals between rate cases because, as noted by Mr. Mullins in testimony, customers simply do not have the information or resources to file deferred accounting petitions seeking benefits.[187/] The Commission rightly shares a concern with parties "about limiting the use of deferred accounting petitions between rate cases."[188/] The Commission should act upon that concern by rejecting the Company's request for special accounting treatment for a project placed into service a mere two months before a rate filing.

183/ Pacific Power Brief at ¶ 121.
184/ Boise Brief at ¶ 104.
185/ Id. at ¶ 98.
186/ Pacific Power Brief at ¶ 143.
187/ Boise Brief at ¶ 105.
188/ Docket Nos. UE-140762 and UE-140617, Order 03/01 at ¶ 10 (May 29, 2014).

DAVISON VAN CLEVE, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Telephone (503) 241-7242

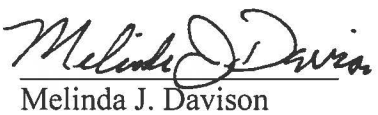
III. CONCLUSION

68 Pacific Power has not demonstrated that its proposed rate increase is just or reasonable in this case. The Commission should adopt Mr. Gorman's reasonable and well-supported cost of capital and capital structure recommendations, as well as Mr. Mullins' carefully analyzed revenue requirement, power cost, and deferral recommendations. Boise also recommends the adoption of Mr. Stephens' cost of service and rate spread proposals in this case. Overall, Boise respectfully requests that the Commission reduce the Company's overall rate increase requests by $35.4 million.

Dated this 3rd day of February, 2015.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.



Melinda J. Davison
Jesse E. Cowell
333 S.W. Taylor, Suite 400
Portland, Oregon 97204
(503) 241-7242 telephone
(503) 241-8160 facsimile
mjd@dvclaw.com
jec@dvclaw.com
Of Attorneys for Boise White Paper, L.L.C.