

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

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	
	)	<b>Docket No. UE-072300</b>
Complainant,	)	
	)	<b>Docket No. UG-072301</b>
v.	)	
	)	<i>(consolidated)</i>
PUGET SOUND ENERGY, INC.	)	
	)	
Respondent.	)	
_____	)	

**BRIEF OF  
THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES**

**September 26, 2008**

## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	ii
I. INTRODUCTION .....	1
II. BACKGROUND .....	2
III. ARGUMENT.....	6
A. The PCORC Distorts the Operation of the PCA.....	6
B. The PCORC Creates the Opportunity for Gaming .....	9
C. The PCORC Process is Fundamentally Flawed .....	10
1. The PCORC is Based on a Complex Power Cost Model that Cannot be Adequately Reviewed in a Five-Month Process.....	10
2. Delays in Receiving Information Have Slowed the PCORC Process .....	11
3. Late-Filed Updates Make an Adequate Review Impossible.....	12
4. The Changes to the PCORC Agreed to by the Company are Inadequate.....	13
D. The PCORC Mechanism is Unnecessary .....	14
E. If the Commission Retains the PCORC, it Should Impose New Conditions .....	15
IV. CONCLUSION.....	16

**TABLE OF AUTHORITIES**

**Cases and Orders**

WUTC v. Puget Sound Energy, Docket No. UE-011570 and UG-011571, Twelfth Supplemental Order (June 20, 2002) .....3

WUTC v. PacifiCorp, Docket No. UE-050684, Order No. 4 (April 17, 2006) .....7

WUTC v. Puget Sound Energy, Docket No. UE-060266 and UG-060267, Order No. 8 (January 5, 2007) .....3, 7

WUTC v. Puget Sound Energy, Docket No. UE-070565, Order No. 7 (August 2, 2007) .....6

**Other Authorities**

James C. Bonbright, *Principles of Public Utility Rates*, 198 (2d ed. 1988) .....9

## I. INTRODUCTION

1 The Industrial Customers of Northwest Utilities (“ICNU”) submits this Initial Brief in Washington Utilities and Transportation Commission (“WUTC” or the “Commission”) Docket Nos. UE-072300 and UG-072301, requesting that the Commission terminate Puget Sound Energy’s (“PSE” or the “Company”) power cost only rate case (“PCORC”) mechanism. The PCORC process has proven both unworkable and unnecessary. In addition, the PCORC upsets the balance of risks between customers and utility shareholders that is inherent in the traditional regulatory model.

2 The evidence in this proceeding establishes that:

- PSE’s use of the PCORC distorts the operation of the company’s power cost adjustment mechanism (“PCA”), because PSE can change its base power cost rate so frequently that the power cost deviation never exceeds the first band of the PCA;
- Allowing PSE to choose between a PCORC and a general rate case creates the opportunity for PSE to “game” the system by choosing the type of proceeding that will produce the highest returns for shareholders;
- The PCORC is not necessary for PSE to recover the costs of new resources; and, all other Northwest utilities are able to finance their operations without a PCORC; and
- Neither the current five-month schedule for processing a PCORC case, nor the six-month schedule proposed by Staff, provide sufficient time for parties to evaluate and draft testimony regarding PSE’s complex power cost assumptions. As result, the Commission does not have an adequate record in a PCORC proceeding to determine that rates are just and reasonable.

3 Given the significant problems with the PCORC mechanism, the Commission should terminate the mechanism immediately, and require PSE to use traditional regulatory mechanisms, like general rate cases, deferred accounting and the PCA, to recover its costs

and update its rates. In the event that the Commission decides to continue the PCORC mechanism, the Commission should adopt the changes to the mechanism proposed by Staff and agreed to by the Company. In addition, the Commission should require the Company to implement a mechanism to allow parties to obtain the AURORA data inputs with the PCORC filing. Finally, ICNU suggests four additional changes. First, the PCORC process should be extended to eleven months, the same as a general rate case. This would allow the Company to file a single issue rate case to place new resources in rates. Second, the Commission should impose a minimum resource requirement on the PCORC, such that the Company can only file a PCORC if it has at least 150 MWs of new generation that it is seeking to add to rates. Third, the Commission should impose limits on the ability of PSE to update its power costs during a PCORC. Finally, the Commission should prohibit PSE from filing a PCORC prior to April 1, 2009, so that the prohibition on general rate cases prior to that date is not rendered meaningless.

## II. BACKGROUND

4           The PCORC mechanism was implemented as part of a multiparty settlement that was adopted by the Commission on June 20, 2002, in Docket No. UE-011570. At that time, ICNU had significant reservations about implementing both a PCORC and a PCA. As a result, even though ICNU was a party to certain elements of the overall settlement stipulation, ICNU was not a party to the Settlement Terms for the Power Cost Adjustment Mechanism (“PCA Stipulation”),<sup>1/</sup> which is the specific agreement that created the

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<sup>1/</sup> WUTC v. Puget Sound Energy, Docket No. UE-011570 and UG-011571, Twelfth Supplemental Order (June 20, 2002), Ex. A to Settlement Stipulation.

<sup>2/</sup> The PCORC is unique, because no other utility in the Northwest has a similar mechanism.

5 Under the PCA Stipulation, PSE was authorized to submit a PCORC to update its power cost baseline to recognize and incorporate into rates the costs of new resource acquisitions. The Commission has defined a PCORC as a: “Procedural option that allows for expedited consideration between general rate proceedings of the prudence and rate treatment of costs associated with *major generation acquisitions* by PSE.”<sup>3/</sup> The PCA Stipulation contemplated that such reviews would occur on an expedited basis with the Commission issuing an order five months from the filing date.<sup>4/</sup> Finally, after July 1, 2005, the PCA Stipulation required that, in the event the PCORC results in an upward adjustment to rates, the Company must file a general rate case within three months of the Commission order.<sup>5/</sup>

6 The PCA Stipulation also instituted a PCA mechanism for PSE, which set forth the manner in which annual deviations between actual power costs and the power cost baseline would be shared between the Company and its customers. The PCA sharing mechanism consists of four bands or levels for power cost deviations with a corresponding sharing percentage. For the first \$20 million deviation (either plus or minus), the Company absorbs 100% of the cost or benefit.<sup>6/</sup> The second band is for deviations of \$20 to \$40 million. These amounts are shared equally between the Company and its customers (50%-

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<sup>2/</sup> DWS-1T at 3, lines 5-8.

<sup>3/</sup> WUTC v. Puget Sound Energy, Docket No. UE-060266 and UG-060267, Order No. 8 (January 5, 2007), Glossary at 3 (Emphasis Added).

<sup>4/</sup> PCA Stipulation at ¶ 11.

<sup>5/</sup> Id. at ¶ 10.

<sup>6/</sup> Id. at ¶ 3.

50%).<sup>7/</sup> The third band is for deviations from \$40 to \$120 million with the Company being responsible for 10% and customers for the remaining 90%.<sup>8/</sup> Finally, the fourth band is for deviations in excess of \$120 million. In these cases, the Company is responsible for 5% and customers are responsible for the remaining 95%.<sup>9/</sup> The PCA mechanism originally included a \$40 million cumulative cap on PSE's power cost exposure, which expired on June 30, 2006.<sup>10/</sup>

7 As shown in PSE's most recent PCA report, for the last three PCA reporting periods, actual power costs have been less than the power cost baseline.<sup>11/</sup> In each case, since the deviation has been within the first band, PSE has kept all of the benefit of lower power costs.<sup>12/</sup> Further, the PCA mechanism has never triggered a rate change.<sup>13/</sup>

8 To date, PSE has submitted three PCORCs. In each filing, the utility had acquired a portion of, or all of, a new generating resource. The first PCORC filing was Docket No. UE-031725, filed on October 24, 2003. In addition to updating all power costs, PSE proposed the acquisition of Frederickson 1 (about 135 MWs for PSE's 50% share), with an associated capital cost of \$80 million.<sup>14/</sup> In the second docket, UE-050870, filed on June 7, 2005, PSE proposed the acquisition of the Hopkins Ridge wind project (150 MWs), with a capital cost of \$190 million.<sup>15/</sup> Most recently, in Docket No. UE-070565, filed on March 20, 2007, the Company proposed the acquisition of the Goldendale Generating Station (277

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<sup>7/</sup> PCA Stipulation at ¶ 11.

<sup>8/</sup> Id. ¶ 3.

<sup>9/</sup> Id.

<sup>10/</sup> Id. at ¶ 2.

<sup>11/</sup> JHS-27 at 2.

<sup>12/</sup> Id.

<sup>13/</sup> DWS-1T at 4, lines 13-14.

<sup>14/</sup> Id., lines 19-21.

<sup>15/</sup> DWS-1T at 5, line 1.

MWs), with a capital cost of \$131 million.<sup>16/</sup> Thus, with each PCORC filing, PSE sought Commission authority for the acquisition of a major new generating resource at a substantial capital cost.

9                   Significantly, however, the majority of the increases sought by PSE in these filings were the results of cost pressures in all other production-related accounts. For example, PSE has stated that the net impact of Hopkins Ridge was only about 56% of the overall increase.<sup>17/</sup> Similarly, in Docket No. UE-070565, PSE noted the net impact of Goldendale was \$30.4 million out of a proposed initial increase of \$64.7 million.<sup>18/</sup> In a supplemental filing, PSE sought \$77.8 million in this proceeding.<sup>19/</sup> While PSE did not provide similar testimony in Docket No. UE-031725, in that proceeding, Mr. Schoenbeck estimated the Frederickson related increase was \$18.3 million out of a request increase of \$64.4 million.<sup>20/</sup> Although the main objective of the PCORC was to provide for the timely inclusion of the costs of new resource in rates, the vast majority of each PCORC rate increase to date has not been attributable to new resource costs.

10                   In PSE's last PCORC case (Docket No. UE-070565), ICNU and other parties raised serious questions regarding whether the PCORC should be continued. Ultimately, the parties entered into a stipulation, which provided for a collaborative stakeholder review of the PCORC process to consider the scope and timing of the PCORC mechanism and whether the mechanism should continue. The creation of the stakeholder process was approved by

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<sup>16/</sup>        Id., lines 1-3.  
<sup>17/</sup>        JHS-14T at 39, line 6.  
<sup>18/</sup>        DWS-1T at 5, lines 10-12.  
<sup>19/</sup>        Id.  
<sup>20/</sup>        Id., lines 12-15.



the Commission in Docket No. UE-070565.<sup>21/</sup> The parties met eight times in an attempt to reach a mutually agreeable resolution of the PCORC issues. In addition, an independent facilitator was brought in to assist with the discussions. According to the Facilitator's Report:

At the conclusion of the process, the parties thoroughly understood their own interests in the matters under discussion, the interests of the other parties, and their own options. At that point the parties felt they had reached an impasse. They chose to break off the discussions and allow interested parties the option to refer issues to the Commission for resolution in PSE's pending general rate case.

11 On August 22, 2008, the parties in this case entered into a Partial Stipulation that resolves all issues in the case, except for the PCORC. As a result, after much testimony, collaborative discussions, settlement meetings and debate, this case provides the Commission with the opportunity to resolve if and under what terms PSE's PCORC should continue.

### **III. ARGUMENT**

#### **A. The PCORC Distorts the Operation of the PCA**

12 The Commission has determined that it is appropriate for utilities to bear a reasonable amount of power cost risk between rate cases. Accordingly, the Commission has required PCA's to include sharing mechanisms. In Docket No. UE-050684, the Commission outlined its requirements for a PCA, stating:

In addition to the principles we have stated previously, we observe that power cost recovery mechanisms should also apportion risk equitably between ratepayers and shareholders. In striking that balance, we consider risks already allocated through the normalization process, a utility's financial condition and other circumstances affecting a utility's ability to

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<sup>21/</sup> WUTC v. Puget Sound Energy, Docket No. UE-070565, Order No. 7 (August 2, 2007) at ¶ 22.

recover its prudent expenditures. 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>22/</sup>

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As noted above, PSE's PCA mechanism contains four sharing bands. In PSE's last general rate case, the Company requested approval to eliminate the \$20 million dead band, consolidate the remaining bands, and modify the cost-sharing percentages in each band. PSE argued that the expiration of the \$40 million cap in the PCA justified its proposed changes. The Commission denied PSE's request, stating:

PSE argues that the expiration earlier this year of a \$40 million cumulative cap on the Company's power cost exposure under the PCA will result in "a huge amount of extreme power cost risk. . . . shifted onto PSE going forward, unless the Commission approves modification of the PCA Mechanism in this case." This argument depends on a distorted perspective on the relationship of the various components of the PCA. The Commission approved in 2002 the balance of risks inherent in the dead band and the sharing bands, and also approved the \$40 million cap as a means to temporarily mitigate risk to the Company so that it could improve its financial condition over a period of years. That is, *the fundamental balance of risks under the PCA was temporarily tilted in PSE's favor by the \$40 million cumulative cap* considering the Company's distressed financial circumstances in the wake of the western energy crisis. Expiration of the cumulative cap was a feature of the PCA mechanism from the outset and cannot now be claimed to result in an unanticipated shift of risks to the Company. Instead, *its expiration allows the balance of risk the Commission approved in 2002 to come fully into play for the first time.*<sup>23/</sup>

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<sup>22/</sup> WUTC v. PacifiCorp, Docket No. UE-050684, Order No. 4 (April 17, 2006) at ¶ 92.

<sup>23/</sup> WUTC v. Puget Sound Energy, Docket No. UE-060266 and UG-060267, Order No. 8 (January 5, 2007) at ¶ 19 (Emphasis Added).

Similarly, Staff has recognized in this case that “[t]he various dead bands and rate recovery trigger were established to identify a level of risk that the Company could and should absorb around a normal level of fluctuating power supply costs.”<sup>24/</sup>

14                   The PCORC mechanism allows PSE to avoid the risk sharing contemplated by the PCA mechanism because PSE can change the power cost base line in a five-month proceeding. This is proven by the facts. PSE has changed rates frequently. In fact, this case will result in the eighth change in the PCA baseline in the last six years.<sup>25/</sup> In addition, in the last 3 PCA reporting periods, actual power costs have been lower than baseline power costs but within the first deadband.<sup>26/</sup> As a result, PSE has kept 100% of the excess revenues. Even staff acknowledges that “[t]he actual effect of the PCA is that the accumulated deferral balances are negligible primarily because the Company has frequently changed base power supply costs through general rate cases and PCORC filings, and through updates to cost projections within those filings. . . .”<sup>27/</sup>

15                   Allowing PSE to update its power cost so frequently through the PCA and the PCORC eliminates any risk for the utility, and it tilts the balance of risks back in favor of PSE. It is a fundamental principle of utility regulation that a utility should bear the costs and reap the profits of cost changes between general rate cases. This concept is known as regulatory lag. Professor Bonbright has observed:

“Quite aside from the recognized undesirability of too frequent rate revisions, Commissions recognize the regulatory lag as a

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<sup>24/</sup> MPP-1T at 6, lines 14-17.

<sup>25/</sup> JHS-29; Tr. at 600, lines 11-16.

<sup>26/</sup> JHS-27 at 2.

<sup>27/</sup> MPP-1T at 6, lines 19-21; at 7, lines 1-2.

practical means of reducing the tendency of a fixed-profit standard to discourage efficient management.”<sup>28/</sup>

Similarly, allowing PSE to change its base power costs in a five-month proceeding also removes a significant incentive for PSE to manage its power costs between general rate cases.

## **B. The PCORC Creates the Opportunity for Gaming**

16 The PCORC creates unfair optionality in two respects. First, PSE may choose between a general rate case and a PCORC depending on which mechanism produces the best result for shareholders. A good example of this is the addition of a major rate base item in a declining capital cost market. All else being equal, if costs of capital were below PSE’s authorized return at the time of the decision, PSE would have an incentive to file a PCORC and maintain its above market rate of return. The same logic would apply when other costs are declining. In contrast, if capital or other costs are increasing, the Company would be incented to file a general rate case. It creates a “heads I win, tails you lose” situation for ratepayers. Mr. Parvinen for Staff virtually admitted as much.<sup>29/</sup>

17 The other opportunity for gaming relates to normalized ratemaking. In both a PCORC and a general rate case, loads and hydro conditions are normalized. This is appropriate in a general rate case because the rate year begins almost a year after the filing. However, in a PCORC, the case only takes five months, and it is likely that the Company would have better information about what is likely to occur in the rate year. Such knowledge

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<sup>28/</sup> James C. Bonbright, *Principles of Public Utility Rates*, 198 (2d ed. 1988).

<sup>29/</sup> Tr. at 612, line 13.

could allow PSE to time its PCORC filing based on conditions it projects will actually occur during the rate year.

**C. The PCORC Process is Fundamentally Flawed**

**1. The PCORC is Based on a Complex Power Cost Model that Cannot be Adequately Reviewed in a Five-Month Process**

18 PSE determines its power costs by running the AURORA production power cost model to determine the hourly dispatch of PSE’s generating resources, as well as the dispatch of all of the generating resources in the Western Energy Coordinating Council (“WECC”).<sup>30/</sup> To account for hydro variability, PSE runs the AURORA model with hydro data from 50 different water years.<sup>31/</sup> After PSE models the dispatch of all the generating resources in the WECC for 50 different water years, it then performs a not-in-models calculation, which includes gas purchases and power purchases that PSE has made.<sup>32/</sup> PSE also updates its load forecasts, fuel costs and production O&M.<sup>33/</sup> PSE’s power cost witness, David Mills, acknowledged that the evidence submitted on power costs in a PCORC is exactly the same as what the Company would submit in a general rate case.<sup>34/</sup> A general rate case generally has an eleven-month schedule, while the schedule for a PCORC is only five months.

19 ICNU witness, Don Schoenbeck, testified that the five-month time frame for processing a PCORC is unworkable due to the “very limited time frame in which to analyze a very complex number of cost projections and perform the necessary computer model

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<sup>30/</sup> Tr. at 520, lines 24-25; at 521, lines 1-9.

<sup>31/</sup> Id. at 520, lines 10-12.

<sup>32/</sup> Id. at 524, lines 5-22.

<sup>33/</sup> Id. at 523-524; 548.

<sup>34/</sup> Id. at 522, lines 18-24.

simulations (each of which takes about 20 hours to run) . . . .”<sup>35/</sup> According to Mr.

Schoenbeck:

[A]n analyst must attempt to undertake the eight month review typically done in a general rate case in about two months. This is simply an impossible task given the extensive documentation, including workpapers, EXCEL spreadsheets, and the extremely large AURORA data base provided to support the filing.<sup>36/</sup>

## 2. Delays in Receiving Information Have Slowed the PCORC Process

20 In the three previous PCORC cases, the short process has been exacerbated by ICNU’s inability to obtain information necessary to review the filings. For example, it has typically taken two to six weeks from the date of the filing for ICNU to obtain the AURORA data set.<sup>37/</sup> In addition, PSE generally takes the full ten business days to respond to data requests.<sup>38/</sup> In a general rate case, these kinds of delays might be acceptable; however, in a five-month PCORC, they seriously limit review of the case.

21 A similar problem is an inability to obtain information that supports the underlying assumptions in the PCORC filing. The PCORC filing typically includes a new load forecast.<sup>39/</sup> In the 2007 PCORC (Docket No. UE-070565), ICNU requested that PSE provide support for the substantial change in loads in its PCORC filing, compared to its just-completed general rate case.<sup>40/</sup> PSE responded that the new loads were forecast using an econometric model using new assumptions, “including but not limited to assumptions related

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<sup>35/</sup> DWS 1T at 6, lines 22-23; at 7, line 1.

<sup>36/</sup> *Id.*, lines 8-11.

<sup>37/</sup> PSE Response to Bench Request No. 7.

<sup>38/</sup> DWS-1T at 7, lines 6-7.

<sup>39/</sup> Tr. at 529, lines 11-16.

<sup>40/</sup> DEM-18.

to economic and demographic growth, energy prices, (sic) conservation.”<sup>41/</sup> When asked whether PSE provided the model or the changed assumptions to ICNU in response to ICNU’s data request, Mr. Mills responded “no,” because “the load forecast is done in another department.”<sup>42/</sup> Given the limited time that was available in the PCORC, ICNU was unable to pursue the issue of whether the load forecast was reasonable. This example illustrates the complexity of attempting to validate the hundreds of assumptions embedded within a PCORC filing in the short time available.

### 3. Late-Filed Updates Make an Adequate Review Impossible

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In recent general rate cases and PCORCs, PSE has updated its power costs at some point in the proceeding. Typically, PSE updates gas prices, and other fuel prices like coal.<sup>43/</sup> In addition, PSE makes additional “out-of-model” adjustments to add new power and gas for power transactions.<sup>44/</sup> If these types of updates are allowed to continue, the Commission should establish boundaries that prevent gaming and allow adequate time for review. With respect to the first issue, the Commission should establish parameters under which an update can occur, rather than give PSE complete discretion to update costs as of a date advantageous to PSE. Mr. Mills testified that changes in gas prices were not the “determining factor” in deciding when an update would be filed.<sup>45/</sup> This poses a good question: what is the determining factor?

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The second issue is even more important. There must be sufficient time to review the update before testimony is due in the case. The update can include new power

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<sup>41/</sup> DEM-18.

<sup>42/</sup> Tr. at 531, lines 6-7.

<sup>43/</sup> Id. at 523-524, 548.

<sup>44/</sup> Id. at 523-524.

<sup>45/</sup> Id. at 526, line 7.

contracts, new gas contracts, new coal contracts and other updates to production O&M calculations.<sup>46/</sup> Each of these new contracts must be reviewed for prudence. In addition, the overall AURORA results must be reexamined because of the vague nature of what PSE may update. For instance, it is unclear what an update to production O&M calculations could entail.<sup>47/</sup>

24                    In PSEs most recent PCORC (Docket No. UE-070565), a power cost update was filed on May 23, 2007, and Staff and intervenor testimony was due on June 15, 2007.<sup>48/</sup> The time for reviewing the information, conducting discovery and drafting testimony was only 16 business days, which is clearly inadequate. Given the complexity of reviewing the evidence presented in a PCORC, a five-month process is unreasonable.

#### **4. The Changes to the PCORC Agreed to by the Company are Inadequate**

25                    PSE has agreed to adopt the following Staff proposals for changes to the PCORC process:

- Extend the expected procedural schedule from five to six months;
- Shorten data request response time from ten to five business days at the outset. Any further reduction can be considered during the prehearing conference;
- Limit filing updates to one update per PCORC, with an additional update allowed as part of the compliance filing if the Commission determines the update is necessary due to increased gas costs and orders that such update be made as part of the compliance filing; and
- Mandate that there can be no overlap of PCORC and general rate case filings, except for interim rate relief.<sup>49/</sup>

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<sup>46/</sup> DEM-12T at 18, lines 8-13; Tr. at 524, 548, lines 19-21.

<sup>47/</sup> See, Tr. at 523, lines 15-25, at 524, lines 1-4.

<sup>48/</sup> PSE Response to Bench Request No. 7.

<sup>49/</sup> KJH-9CT at 20.



In addition, PSE agreed at hearing that it would implement a mechanism pursuant to which the AURORA data files would be provided to interested parties at the same time as the PCORC filing.<sup>50/</sup> While these measures are improvements, adding one month to the process does not solve the problem. As Mr. Schoenbeck noted, in a PCORC, an analyst is required to perform eight months worth of work in two months.<sup>51/</sup> Hence, performing eight months worth of work in three months is not much of an improvement. Further, the proposal to limit updates is flawed, because it does not establish guidelines for when an update can occur.

**D. The PCORC Mechanism is Unnecessary**

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ICNU also questions the need for a PCORC. PSE has shown that it can file general rate cases very quickly, and it has not demonstrated why it needs a PCORC to pass on regular, projected cost increases. In addition, PSE has sought and been granted deferred accounting of costs even with regard to a resource acquisition that was part of a PCORC filing. PSE submitted a PCORC filing that included the Goldendale plant on March 20, 2007, despite the fact that PSE had previously filed an accounting petition seeking deferred accounting treatment for Goldendale's fixed costs. The Commission approved this application on April 11, 2007, allowing the costs to be deferred commencing on March 15, 2007. Thus, it is impossible for PSE to argue that a PCORC filing is the only way to receive timely recovery of the costs of new resources. In addition, other utilities, such as Avista, PacifiCorp and Portland General Electric, are able to finance their operations without a PCORC mechanism.

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<sup>50/</sup> Tr. at 550, lines 21-25; 553, lines 10-15.

<sup>51/</sup> DWS 1T at 7, lines 8-9.

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PSE has failed to demonstrate that it cannot recover its costs using traditional regulatory mechanisms, like deferred accounting, general rate cases and the PCA. On the other hand, the record is clear that the protections afforded all parties under the general rate case procedures are absolutely necessary for equitable due process. Since the need for a fair process outweighs any need for the PCORC mechanism, the Commission should terminate the mechanism immediately.

**E. If the Commission Retains the PCORC, it Should Impose New Conditions**

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ICNU strongly urges the Commission to terminate the PCORC mechanism for the reasons noted above; however, if the Commission decides to continue the PCORC, then ICNU proposes that the Commission impose the following additional conditions:

- A PCORC can only be filed if PSE is seeking rate recovery for new resources that total at least 150 MWs of capacity;
- The PCORC process should be the same eleven months as a general rate case. In other words, the PCORC would be a single issue rate case for major new resources;
- Any cost update must be filed at least six weeks prior to the due date for Staff and intervenor testimony; and
- No PCORC can be filed prior to April 1, 2009.

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The 150 MW threshold will ensure that the PCORC is limited to new resource additions. The eleven-month process will ensure that there is adequate opportunity for reviewing the case, and it will prevent any opportunity for gaming. The limit on gas updates will ensure that there is adequate opportunity to review the update, and it will prevent PSE from timing an update to its advantage. Finally, in the partial settlement in this docket, the parties agreed that PSE could not file a general rate case prior to April 1, 2009. As ICNU

stated at the hearing on the partial settlement, that provision provides some measure of rate stability for customers.<sup>52/</sup> In order to ensure that rate stability, the Commission should prohibit the filing of any PCORC prior to April 1, 2009.

#### IV. CONCLUSION

30                   After six years of experience with the PCORC and eight changes in base power costs, it is clear that the PCORC mechanism has significant unintended consequences. The PCORC process is both unworkable and unneeded. ICNU urges the Commission to reject the PCORC mechanism, because the process is fundamentally unfair and is not designed to produce just and reasonable rates.

Dated in Portland, Oregon, this 26th day of September, 2008.

Respectfully submitted,

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<sup>52/</sup> Tr. at 495, lines 2-7.