

NO. 44591-3-II

COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION II

(Washington Utilities and Transportation Commission Docket UE-100749)

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PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY,

Appellant,

vs.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  
a Washington state agency,

Respondent,

PUBLIC COUNSEL DIVISION OF THE WASHINGTON  
ATTORNEY GENERAL'S OFFICE,

Intervenor-Respondent,

INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,

Intervenor-Respondent.

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SETTLEMENT STIPULATION

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In this proceeding, appellant PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company), seeks judicial review of Orders 10 and 11, entered by respondent Washington Utilities and Transportation Commission (Commission) in Docket UE-100749. This Stipulation resolves this judicial review proceeding and the issues contested by PacifiCorp in Orders 10 and 11.

### **PARTIES**

1. The parties to this Stipulation are PacifiCorp, the Commission, and intervenor-respondent the Industrial Customers of Northwest Utilities (ICNU) (individually Party, and collectively Stipulating Parties). Intervenor-respondent Public Counsel Division of the Washington Attorney General's Office (Public Counsel) is not joining this Stipulation, but does not oppose this Stipulation.

### **BACKGROUND**

2. PacifiCorp filed a general rate case on May 4, 2010, seeking to increase rates effective April 2011. The case, Commission Docket UE-100749, was divided into two phases. In the first phase, the Commission issued Order 06 on March 25, 2011,<sup>1</sup> resolving all issues except those related to the calculation and disposition of revenues from PacifiCorp's renewable energy credit (REC) sales between January 2009 and April 2011. In the second phase, the Commission issued Order 10 on August 23, 2012. Order 10 required PacifiCorp to credit to its customers revenues from the sale of RECs between January 1, 2009, and the effective date of the rates approved in Order 06, April 3, 2011. On November 30, 2012, the Commission issued Order 11, denying PacifiCorp's petition for reconsideration of Order 10.

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<sup>1</sup> *Wash. Utilities and Transp. Comm'n v. PacifiCorp d/b/a Pacific Power & Light*, Final Order Rejecting Tariff Sheets; Authorizing Increased Rates; and Requiring Compliance Filing, Docket UE-100749, Order 06 (March 25, 2011).

On December 28, 2012, PacifiCorp timely filed a Petition for Judicial Review of Orders 10 and 11. ICNU and Public Counsel timely intervened in the judicial review proceedings.

### **SETTLEMENT AGREEMENT**

3. PacifiCorp agrees to credit to its customers a total of \$13.0 million associated with Washington-allocated revenues from the sale of RECs from January 1, 2009, through April 2, 2011 (REC Revenues). PacifiCorp will implement this credit through a one-time bill credit, calculated using the same allocation method for REC revenues now used in PacifiCorp's Schedule 95. Attachment A to this Stipulation demonstrates the rate spread of the \$13.0 million rate credit among PacifiCorp's customer classes.<sup>2</sup>

4. On or before June 6, 2014, PacifiCorp agrees to file a tariff schedule to implement the \$13.0 million rate credit for REC Revenues for billing cycles beginning on June 20, 2014. PacifiCorp will submit the tariff schedule as a compliance filing in Docket UE-100749, with an executed copy of this Stipulation. PacifiCorp will request that the Commission approve the tariff schedule at its June 12, 2014 open meeting with less than statutory notice, as permitted by RCW 80.28.060. The Commission will consider the tariff schedule at an open public meeting held in compliance with the Open Public Meetings Act, RCW 42.30, which will provide an opportunity for the public to comment on the tariff filing.

5. The Stipulating Parties agree that the \$13.0 million customer rate credit fully and finally discharges all of PacifiCorp's obligations under Orders 10 and 11 regarding REC Revenues from January 1, 2009, through April 2, 2011, including interest.

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<sup>2</sup> The one-time bill credit will be given to each active customer and will be calculated as each customer's percentage of all active customers' billed kilowatt-hours within each rate schedule for the most current 12-month period ending May 2014, multiplied by the allocated credit amount to each rate schedule shown on Attachment A.

6. Within five business days of full execution of this Stipulation, the Stipulating Parties agree to file a joint motion with the Court of Appeals requesting a continuation of oral argument and stay of PacifiCorp's request for judicial review pending further proceedings before the Commission.

7. Once PacifiCorp files a tariff schedule for a rate credit for REC Revenues that complies with this Stipulation, and the Commission by order approves the tariff schedule without modifications or conditions and acknowledges in that order that all of PacifiCorp's obligations regarding REC Revenues from January 1, 2009, through April 2, 2011, are discharged, the Stipulating Parties agree to file a joint motion to dismiss with prejudice PacifiCorp's petition for judicial review.

8. This Stipulation does not affect REC revenues or rate credits issued to customers through Schedule 95 on or after April 3, 2011.

9. The Stipulating Parties agree that settling this case is reasonable because of the unique circumstances surrounding Orders 10 and 11 in Docket UE-100749. This case is unique because it involves implementation of Washington's Energy Independence Act and affects only a limited time period before April 3, 2011. For these reasons, the Stipulating Parties agree that this Stipulation and Orders 10 and 11 are non-precedential.

10. Each Party agrees to provide other Stipulating Parties the right to review before publication each announcement (including news releases) it intends to make about the Stipulation. This right of advance review includes a reasonable opportunity for each Party to suggest changes to the text of each announcement.

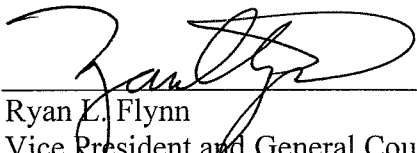
11. The Stipulating Parties enter into this Stipulation to avoid further expense, inconvenience, uncertainty, and delay. By executing this Stipulation, no Party is deemed to

be endorsing or rejecting the Commission's findings and conclusions in Orders 10 and 11, nor is any Party agreeing or disagreeing that any provision of this Stipulation is appropriate for resolving any issue in any other proceeding.

DATED: May 30, 2014.

**PacifiCorp d/b/a Pacific Power & Light Company**

**Washington Utilities and Transportation Commission**

By   
Ryan L. Flynn  
Vice President and General Counsel

By \_\_\_\_\_  
Donald T. Trotter  
Assistant Attorney General

Date: 6/2/14

Date: \_\_\_\_\_

**Industrial Customers of Northwest Utilities**

By \_\_\_\_\_  
Melinda Davison  
Attorney for ICNU

Date: \_\_\_\_\_

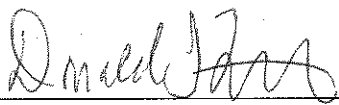
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DATED: May 30, 2014.

**PacifiCorp d/b/a Pacific Power & Light Company**

**Washington Utilities and Transportation Commission**

By \_\_\_\_\_  
Ryan L. Flynn  
Vice President and General Counsel

By  \_\_\_\_\_  
Donald T. Trotter  
Assistant Attorney General

Date: \_\_\_\_\_

Date: June 2, 2014

**Industrial Customers of Northwest Utilities**

By \_\_\_\_\_  
Melinda Davison  
Attorney for ICNU

Date: \_\_\_\_\_

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DATED: May 30, 2014.

**PacifiCorp d/b/a Pacific Power & Light Company**

**Washington Utilities and Transportation Commission**

By \_\_\_\_\_  
Ryan L. Flynn  
Vice President and General Counsel

By \_\_\_\_\_  
Donald T. Trotter  
Assistant Attorney General

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Industrial Customers of Northwest Utilities**

By Melinda J Davison  
Melinda Davison  
Attorney for ICNU

Date: 6/2/14

**TABLE A. PRESENT AND PROPOSED RATES  
PACIFIC POWER & LIGHT COMPANY  
IN WASHINGTON  
12 MONTHS ENDED JUNE 2012**

Docket UE-130043

Line No.	Description (1)	Curr. Sch. No. (2)	Avg. Cust. (3)	MWH (4)	Present Base Revenues (\$000) (5)	Factor 10 Allocator* (6)	Proposed Credit (7)	% (8) (7)/(5)
<b>Residential</b>								
1	Residential Service	16/17/18	104,297	1,601,808	\$142,149	42.43%	(\$5,515,575)	-3.9%
2	<b>Total Residential</b>		104,297	1,601,808	\$142,149		(\$5,515,575)	-3.9%
<b>Commercial &amp; Industrial</b>								
3	Small General Service	24	18,647	537,396	\$47,810	13.50%	(\$1,754,361)	-3.7%
4	Partial Requirements Service	33	0	0	\$0		\$0	0.0%
5	Large General Service <1,000 kW	36	1,044	860,704	\$64,749	21.38%	(\$2,779,633)	-4.3%
6	Agricultural Pumping Service	40	5,260	153,555	\$12,992	3.56%	(\$462,801)	-3.6%
7	Partial Requirements Service => 1,000 kW	47	1	1,734	\$305		(\$17,713)	-5.8%
8	Large General Service => 1,000 kW	48	58	358,355	\$24,339	8.45%	(\$1,080,690)	-4.4%
9	Large General Service => 30,000 kW	48	1	473,928	\$26,471	10.45%	(\$1,358,039)	-5.1%
10	Recreational Field Lighting	54	29	283	\$25	0.00%	(\$629)	-2.5%
11	<b>Total Commercial &amp; Industrial</b>		25,040	2,385,955	\$176,690		(\$7,453,867)	-4.2%
<b>Public Street Lighting</b>								
12	Outdoor Area Lighting Service	15	2,599	3,452	\$484	0.06%	(\$7,678)	-1.6%
13	Street Lighting Service	51	163	3,040	\$600	0.06%	(\$7,402)	-1.2%
14	Street Lighting Service	52	18	287	\$47	0.01%	(\$698)	-1.5%
15	Street Lighting Service	53	220	4,281	\$296	0.08%	(\$10,423)	-3.5%
16	Street Lighting Service	57	41	1,790	\$219	0.03%	(\$4,357)	-2.0%
17	<b>Total Public Street Lighting</b>		3,041	12,849	\$1,646	0.24%	(\$30,558)	-1.9%
18	<b>Total Sales to Standard Tariff Customers</b>		132,379	4,000,612	\$320,485		(\$13,000,000)	-4.1%
19	Total AGA				\$545		\$0	
20	<b>Total Sales to Ultimate Consumers</b>		132,379	4,000,612	\$321,030		(\$13,000,000)	-4.0%

\*The Factor 10 Allocator is the same allocation factor used to spread the revenue credit in Schedule 95.