

1 *WUTC v. PacifiCorp d/b/a Pac. Power & Light Co.*, Docket UE-050684,
2 Order 04 at paragraph 285 (2006) (emphasis added). The Commission clearly
3 rejected the proposal and provided a clear and articulate reason for doing so.

4 In Docket Nos. UE-061546 & UE-060817 (consolidated), ICNU picked up the
5 theme and proposed a variation of the double-leverage adjustment to which the
6 Commission responded, in relevant part, as follows:

7 The second key problem is the care taken to separate the financial
8 circumstances of PacifiCorp from the other affiliates, including
9 MEHC, through “state of the art” ring fencing approved by the
10 Commission in the acquisition proceeding. *In this context, it*
11 *would be very difficult to justify joining the financial*
12 *circumstances of MEHC and PacifiCorp by imputing MEHC debt*
13 *costs into PacifiCorp’s capital structure. As the Company and*
14 *Staff argue, this smacks of the very sort of thing we squarely*
15 *rejected in the Company’s most recent prior general rate*
16 *proceeding when presented as a “double leverage” adjustment.*

17 *WUTC v. PacifiCorp d/b/a Pac. Power & Light Co.*, Dockets UE-061546 & UE-
18 060817 (consolidated), Order 08 ¶ ~~15131~~ (2007) (emphasis added).

19 Again, the Commission clearly rejects the proposal and states its reason for doing
20 so.

21 In Docket Nos. UE-080416/UG-080417, ICNU and Public Counsel proposed
22 reducing Avista federal income tax rate from 35% to its “effective tax rate” of
23 31% based on a consolidated tax adjustment. In relevant part, the Commission
24 responded as follows:

25 Finally, under either circumstance, the CTA [consolidated tax
26 adjustment] violates the principle, if not the letter, of our recent

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There are comprehensive ring-fencing provisions that protect customers from financial distress either associated with the purchaser’s financing or distress at other companies affiliated with the purchaser.

Id. at paragraph 272.

Taken together, these commitments and conditions we [the Commission] impose on the Settlement are *more protective of customers and the public interest, more far-reaching, and at least as enforceable as any prior similar transaction in memory.* [Emphasis added.]

Id. at paragraph 273.

From the statements quoted above, the Commission appears to value these provisions and is satisfied that they are robust enough to accomplish their intended purpose. In addition, the Commission’s intent was that new owners bear the full risk of their investment “without affecting *at all* the rates paid by PSE’s ratepayers”.

Q. What do PSE’s ring fencing provisions have to do with the consolidated tax savings adjustment proposed by ICNU?

A. It is illogical to require strict ring-fencing provisions on PSE and contravene those same provisions by lowering PSE’s revenue requirement because a non-regulated affiliate generated a tax loss. The very nature of PSE’s “state of the art” ring-fencing provisions ensures that customers pay only the expenditures related to regulated operations—nothing more and nothing less. This would include interest income or interest expense associated with regulatory operations.

1 Certainly, it does. Therefore, the consolidated tax savings adjustment will
2 unquestionably have an impact on the utility. Additionally, as discussed above,
3 the consolidated tax savings adjustment could have an impact on PSE and its
4 customers by weakening the ring-fencing provisions that currently protects
5 customers from risks of the unregulated affiliated companies.

6 In addition, ICNU's statement must be viewed in the light of INCU's Responses
7 to PSE Data Request No. 023 and 024, provided as Exhibit No. ___(MRM-15).
8 ICNU has apparently not researched any state other ~~that~~than Texas, which could
9 account for ICNU's failure to find any evidence, either positive or negative.

10 The Commission should reject the consolidated tax savings adjustment because it
11 will have an unfavorable impact on the utility, its customers, and its shareholders.

12 **4. ICNU's Proposed Consolidated Tax Savings Adjustment is an**
13 **Outlier Within the Industry**

14 **Q. How common are consolidated tax savings adjustments?**

15 A. Consolidated tax adjustments are not common. PSE is only aware of a handful of
16 states that deviate from the widely-used stand-alone method that is currently
17 employed by this Commission.

18 The methodology proposed by ICNU is an even further outlier because it is, at
19 most, used in a small subset of the states that do a consolidated tax savings
20 adjustment. Of the states that do a consolidated tax adjustment, each state is

1 **Q. By ignoring AMT and tax credits, what does ICNU’s “tax savings” actually**
2 **represent?**

3 A. ICNU’s “tax savings” actually represents an arbitrary calculation designed
4 loosely around ICNU’s definition of “tax shield” that has the sole intent of
5 lowering the revenue requirement. It fails to actually look at tax savings.

6 This contrasts sharply with PSE’s tax sharing agreement, which considers tax
7 credits and AMT, thereby ensuring that customers are only burdened with taxes
8 applicable to utility operations.

9 **7. Additional Flaws in ICNU’s Proposed Consolidated Tax**
10 **Savings Adjustment Calculation**

11 **Q. Are there any other errors in ICNU’s consolidated tax savings adjustment**
12 **calculation?**

13 A. Yes. PSE has reproduced ICNU’s calculations as Exhibit No. ___(MRM-16C).
14 The only change made to ICNU’s original calculation is to add column references
15 to aid in this discussion. In column N, the total taxable income for PSE, on line 2,
16 is \$100 million. However, PSE’s “loan amount” in column N, line 41 is
17 \$261 million. This is ~~not~~ impossible, illogical, and unreasonable. PSE cannot
18 “loan” that which it does not have.