BEFORE THE WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,

v.

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

Docket No. UE-111190

DIRECT TESTIMONY OF BION C. OSTRANDER (BCO-1CT)

ON BEHALF OF

PUBLIC COUNSEL

January 6, 2012

REDACTED VERSION

DIRECT TESTIMONY OF BION C. OSTRANDER (BCO-1CT)
DOCKET NO. UE-111190

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I. INTRODUCTION/SUMMARY

Q: Please state your name and business address.

A: Bion C. Ostrander. My business address is 1121 S.W. Chetopa Trail, Topeka, Kansas, 66615-1408.

Q: By whom are you employed and in what capacity?

A: I am the President of Ostrander Consulting.

Q: On whose behalf are you testifying?

A: I am testifying on behalf of the Public Counsel Section of the Washington Attorney General's Office (Public Counsel).

Q: Please describe your professional qualifications.

A: Please see Exhibit No. BCO-2 for more information regarding my professional experience and educational background. In summary, I am an independent regulatory consultant and a practicing CPA with a specialization in regulatory accounting and policy issues. I have over thirty years of regulatory and accounting experience. I have addressed many regulatory issues in numerous state jurisdictions and on an international basis.

Q: Have you ever testified before the Washington Utilities and Transportation Commission (UTC)?

A: No, this is my first time testifying before the UTC.

Q: What is the purpose of your testimony?

A: I will address certain operating revenues, operating expenses, tax, and rate base issues in this proceeding. I am not addressing cost of capital or rate design issues. All of the adjustments I propose are stated on a Washington jurisdictional basis, unless indicated otherwise, and are shown before any income tax impact. However, exhibits included with this testimony show adjustments both gross and net of income taxes.

Q: Have you performed a comprehensive evaluation of PacifiCorp's revenue requirement?

A: No. I have been retained by Public Counsel to address specific issues and adjustments. Although I propose certain adjustments that reduce PacifiCorp's revenue requirement, it is not my intent to propose a final "bottom-line" revenue requirement. I believe there may be additional adjustments and issues addressed by other parties that should also be considered by the Commission in arriving at a final revenue requirement.

The following table shows the adjustments I am proposing to the Company's unadjusted books. In total, these adjustments reduce operating income (before taxes) by $3,099,610, and increase net rate base by $27,607. The impact of these adjustments is also shown on a net of tax basis in Exhibit No. BCO-3C.

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TABLE 1: PUBLIC COUNSEL ADJUSTMENTS SUMMARY

LINE	ISSUE	PC ADJUSTMENT
	ADJUSTMENTS TO OPERATIONS:	
1	Nonrecurring DSM Costs	$(64,947)
2	Automated Meter Reading Savings	$(518,826)
3	System Software	$(65,571)
4	Directors' & Officers' Liability Insurance	$(22,457)
5	2010 Non-Union Payroll Raise	$(85,525)
6	Property & Liability Insurance (Self Insurance)	$ -
7	Costs Paid for Settling Litigation	$(835,107)
8	Impute Income on Intercompany Fed. Tax Receivable	$(1,268,160)
9	Bonuses in MEHC Affiliate Management Fee	$(136,883)
10	Charitable Contributions	$(770)
11	Employee Meals and Entertainment	$(39,912)
12	Legislative and Lobbying	$(29,688)
13	Marketing and Advertising	$(1,210)
14	Membership Fees and Dues	$(30,554)
15	Total Operations Adjustments to Revenue Requirement	**$(3,099,610)**
	ADJUSTMENTS TO RATE BASE:	
16	Automated Meter Reading Savings	
17	System Software (see above adjustment to Operations)	$65,571
18	Plant Held for Future Use	$(37,964)
19	Total Rate Base Adjustments to Revenue Requirement	**$27,607**

II. OPERATING INCOME ADJUSTMENTS

A. Nonrecurring DSM Costs

Q: Please summarize your adjustment for Nonrecurring DSM Costs.

A: The Company confirmed in discovery that Washington state Demand Side Management (DSM) expenses of $64,947, related to the Cadmus Group, Inc. should be removed from 2010 regulated operating expenses.[1] Thus, my adjustment removes this amount from the test period. These expenses are related to consulting costs and should be removed because an accounting correction was made in 2011 assigning these amounts to the DSM regulatory asset. It appears that the Company agrees this adjustment is reasonable and will not contest it, so it is not necessary to address this issue in detail.

B. AMR Implementation

Q: Please summarize your adjustment for AMR Implementation.

A: This adjustment revises the Company's pro forma adjustment related to implementation of automated meter reading (AMR) technology, and reflects additional cost reductions and benefits related to AMR.[2] My total adjustment for this issue is $518,826. I first removed severance pay expenses related to terminated meter readers, which reduced test period expenses by $86,826. I also reflected additional cost savings and revenue increases of $432,000, which were identified in the Company's AMR planning document.

[1] PacifiCorp Response to Public Counsel Data Request No. 201.
[2] Exhibit No. RBD-1T, p. 13:10-22, and workpaper 4.4.

Q: Can you briefly describe the Company's adjustment to reflect savings related to implementation of AMR?

A: PacifiCorp explains that it began replacing about 122,000 meters in Yakima, Walla Walla, and Sunnyside districts in August 2010 with new radio-equipped digital meters. The Company notes that through the addition of these new meters, it was able to reduce its workforce by 20 meter readers. The Company makes a pro forma adjustment to reflect the reduction in meter reading expense anticipated through December 2011.[3] However, the Company's proposed adjustment did not reflect the impact of removing severance costs related to the terminated meter readers, or various other savings related to implementation of AMR.

Q: What are the reasons for the first component of your adjustment, removing severance costs related to AMR implementation?

A: Primarily, the Company has admitted that $86,826 of Washington-allocated AMR severance costs have not been removed from this rate case.[4] Removing these costs is consistent with the Company's pro forma adjustment reflecting the net impact of savings related to AMR. Removing AMR severance costs is also consistent with the ratemaking principle of "matching," which requires that the monetary impact of all related issues or events be properly recognized and reflected in the revenue requirement for any particular adjustment (instead of just subjectively picking and choosing adjustments). Failing to reflect the reduction in severance costs would understate savings related to AMR implementation and overstate the cost of service.

[3] *Id*.
[4] PacifiCorp Response to Public Counsel Data Request No. 92.

Q: Could you please explain the basis for the second component of your adjustment?

A: In discovery, Public Counsel asked the Company to provide all information addressing the cost efficiencies and decisions related to AMR. The Company's response referred only to a six-page document titled "An Investment Appraisal for Automated Meter Reading in the State of Washington Executive Report and Authorization" (IA-AMR).[5] This document identifies at least three additional cost reduction/efficiency components not reflected in the Company's case, referred to hereinafter as non-payroll savings.

Q: How did you calculate the amount for non-payroll savings?

A: The IA-AMR identifies at least three additional components of AMR savings/efficiencies, which consist of both cost savings and revenue increases.[6] Information and amounts for each additional cost savings/revenue increase component are:

1) Meter Reading Accuracy - Increased meter reading accuracy will create $165,000 in annual savings by eliminating the need to bill estimated reads, and from reducing associated phone call inquiries at the business centers.
2) Energy Revenue Increases - Advanced meter technology will also result in system energy loss reductions and allow revenue recovery on currently unaccounted for energy totaling $267,000 annually.
3) Other Benefits - Customers will sense less intrusion from meter readers entering their property and this will decrease the chance of damaging property and

[5] PacifiCorp Response to Public Counsel Data Request No. 44 1st Revised, Attach. PC-44.
[6] *Id*. The three additional cost savings/revenue increases of AMR are set forth in the IA-AMR, Section 1.1 Benefits, pp. 2 -3 and Section 1.5, p. 5.

landscaping, and reducing encounters with dogs and other hazards. PacifiCorp did quantify the impact of this component.

My adjustment for non-payroll savings consists of the combined impact of the first two components, as quantified by the PacifiCorp in the IA-AMR, totaling $432,000 on a Washington basis.[7]

Q: PacifiCorp appears to claim that its AMR adjustment approximates the same amount of AMR savings set forth in the IA-AMR, so no additional adjustment is necessary. Do you agree?

A: No. The Company has stated that the IA-AMR originally estimated AMR annual operating savings of $1.09 million and the Company's actual AMR adjustment includes O&M savings of $1,083,728, inferring that its adjustment is equal to the Company's original estimate of cost savings in the IA-AMR, so no additional adjustment is necessary.[8] However, the Company's adjustment does not include all cost savings related to AMR. The Company's IA-AMR discussed $1.09 million of estimated AMR cost savings, plus additional AMR cost non-payroll savings of $432,000, which are not included in the Company's AMR rate case adjustment of $1,083,728. Thus, it is also necessary to reflect the "non-payroll" AMR cost savings/revenue increases of $432,000.

Q: Are the non-payroll savings of $432,000 identified in the IA-AMR known and measurable for rate case calculation purposes?

[7] For purposes of this adjustment, I am treating the "revenue increase" component of AMR as an "expense reduction," and this will have the same impact on revenue requirements.
[8] PacifiCorp Response to Public Counsel Data Request No. 109.

A: Yes. These non-payroll savings were clearly known and measurable to the extent that they were relied upon in the Company's decision-making process for implementing AMR. If these savings amounts were not reasonable, known, or measurable, then the Company would likely not have included these amounts in its IA-AMR, which is the Company's only AMR evaluation document for Washington.[9]

Second, the Company claimed for the first time in discovery these non-payroll savings cannot be "directly attributable to AMR implementation."[10] This argument is a red herring. The Company specifically identified these other non-payroll savings components in its IA-AMR, which is only related to AMR implementation in Washington. The title and the language included in the IA-AMR makes it clear that these non-payroll savings are related only to AMR implementation. The original IA-AMR was prepared for purposes unrelated to the rate case and did not have an objective of influencing the cost savings up or down, thus the cost savings included in the IA-AMR are more reliable than PacifiCorp's comments about these cost savings in this rate case proceeding.

In addition, I believe that the IA-AMR makes some very strong statements that lead me to conclude that the non-payroll savings are in fact known and measurable. The Executive Summary of the IA-AMR document states:

> This project has tangible benefits that are reflected in the financial analysis, including reduction in meter reading and customer service costs, and reduced system losses. Other benefits that add value to the project and the company include improved meter reading accuracy, increased revenue through more accurate solid state metering, detection

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[9] Various Public Counsel data requests asked for all planning, forecasting, cost-efficiency studies, and other documents related to implementation of AMR in Washington. The only document provided was the IA-AMR.
[10] PacifiCorp Response to Public Counsel Data Request No. 239.

> of lost metered accounts and improved safety for the field employees. Additionally, this project provides for a higher quality manager meter program.[11]

Q: Is it reasonable to include the entire annualized impact of $432,000 of non-payroll savings as an adjustment in this case?

A: Yes. The most substantive impact of AMR implementation was not effective until 2011, so there is little, if any, cost savings/revenue increases reflected in the 2010 test period.[12] Although 72 percent of new meter capital costs were incurred by October 2011,[13] and 93 percent of the new meter capital costs were incurred by December 2011,[14] it is likely that substantial non-payroll savings related to these new meter additions did not occur immediately, but probably lagged installation timing.

C. System Software Expense

Q: Please summarize your adjustment for System Software Expense.

A: This adjustment removes the Washington state portion of Open Link Financial, Inc. (Open Link) system software expense of $65,571 and capitalizes this same amount as an intangible asset for amortization. In prior years, similar amounts were capitalized. However, in 2010, these same software costs were expensed, which appears to be contrary to the Company's normal capitalization/expense treatment policy. To address

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[11] Although the IA-AMR identifies several risks related to AMR, it also claims that several steps were taken to mitigate these risks and that this project will use the same processes, vendors, and project management that made the Wasatch Front and other AMR projects successful. PacifiCorp Response to Public Counsel Data Request No. 44 1st Revised, Attach. PC-44 (IA-AMR, Section 1.2 and 1.3, p. 3).

[12] This can be inferred from the fact that most of the Washington meter readers whose jobs were eliminated by implementation of AMR were terminated in 2011. Three meter readers were terminated in 2010 and seventeen meter readers were terminated in 2011. PacifiCorp Response to Public Counsel Data Request No. 102.

[13] Exhibit No. RBD-3 p. 4.4.3. The 72 percent is calculated by dividing new meter capital costs of $7,140,088 at October 2010 by total new meter capital costs of $9,863,852 at March 2011.

[14] Exhibit No. RBD-3, p. 4.4.3. The 93 percent is calculated by dividing new meter capital costs of $9,178,347 at December 2010 by total new meter capital costs of $9,863,852 at March 2011.

this inconsistency and to eliminate the potential manipulation of these costs, which can unduly and unjustifiably increase the revenue requirements in this rate case, I believe that all of these software costs should be capitalized.

Q: Can you provide some background for this Open Link adjustment?

A: Public Counsel Data Request No. 201 asked PacifiCorp to provide various consulting and professional services costs for 2009 through 2011 year-to-date, but PacifiCorp's response to this data request failed to provide most of the important information requested for the professional services firm Open Link. Therefore, Public Counsel Data Request No. 345 was issued as a follow-up to obtain this information for Open Link, including copies of invoices, description of services provided, and to explain how expensed versus capitalized software costs were determined.

Q: How are significant system software costs usually treated on a company's books and for rate case purposes?

A: Because system software costs are significant and are not normally incurred on an annual recurring basis, these costs are usually capitalized and amortized on a company's books. If such amounts are expensed in one year, then an adjustment is usually made for rate case purposes to amortize these costs over a number of years.

The accounting treatment of software costs is important because, in a year in which a company files a rate case, it is advantageous for the company to expense a greater portion of software costs instead of capitalizing such costs. This is due to the fact that expensing an item produces a higher revenue requirement and can justify higher retail customer rates.

Q: How does PacifiCorp allocate software costs between expensed and capitalized accounts?

A: In discovery, PacifiCorp did not provide a detailed explanation of how it allocates Open Link software costs between expensed and capitalized amounts.[15] Instead, the Company made a general and vague statement that this allocation was determined at the beginning of the project, based on project phase and expenditure type with "requirements" costs being expensed and "testing" costs being capitalized.

Q: Can you explain the issues and concerns that resulted in your adjustment to Open Link software costs?

A: My review of information provided by in discovery revealed some unusual, inconsistent, and suspect accounting treatment of software costs. For example. PacifiCorp's response to Public Counsel Data Request No. 201 shows that Open Link software costs for 2009 were allocated between $39,800 of expenses and $164,170 of capitalized costs, and for 2010 were allocated between $65,571 of expenses and $87,425 of capitalized costs. In other words, the 2009 period included significantly more capitalized costs while the 2010 period included more expensed costs.

There are a number of examples of inconsistent treatment. For instance, the Company treated Open Link's "Consulting: Wave 1- Design Phase" December 19, 2008 invoiced software costs as capitalized amounts,[16] yet the Company treated these same software costs (Consulting: Wave-1 Design Phase) as expensed amounts per the

[15] PacifiCorp Response to Public Counsel Data Request No. 345(c) and (d).
[16] PacifiCorp Response to Public Counsel Data Request No. 345, Attach. PC 345b, Invoice No. 80988.

December 25, 2009 invoice.[17] Also, the Company treated Open Link's "Consulting Fees - Integration Test Phase for Phase I" November 13, 2009 invoiced software costs as capitalized amounts,[18] yet the Company treated "Consulting Fees – System Test for Phase II" December 22, 2010 invoiced software costs as expensed amounts.[19] The Company's response to Public Counsel Data Request No. 345(d) clearly states that it treats "testing" costs as capital costs, yet the Company expensed all of the December 22, 2010 "testing" costs (although the Company originally allocated some of these costs to capital accounts on December 30, 2010, it subsequently reversed this accounting entry and expensed all of these costs on December 31, 2010).

The fact that the Company violated its own policy by expensing these testing costs on December 31, 2010 (especially after it had originally capitalized some of these costs) could suggest that it was attempting to maximize expensed costs and related revenue requirements in 2010 for purposes of this rate case.

Q: Do you have additional concerns with the treatment of the Open Link software costs?

A: Yes. PacifiCorp recorded the entire amount of its 2010 software expense of $65,571 on December 31, 2010, the last day possible in order to justify an increase in revenue requirements. What makes this transaction appear even more unusual is that on December 30, 2010, the Company recorded part of these software costs as a capitalized cost, but then on December 31, 2010, the Company reversed this accounting entry and shifted all amounts to the expense account. Because expenses

[17] *Id.,* Invoice No. 90207.
[18] *Id.*, Invoice No. 90991.
[19] *Id.*, Invoice No. 101054.

have a greater impact on revenue requirements than do capitalized costs, it was beneficial to shift these costs from expense to capital amounts in 2010, the test period for this rate case.[20]

Additionally, although there is usually a period of 45 days between receipt and payment of Open Link invoices, the December invoice was received December 22, 2010, and appears to have been paid nine days later on December 31, 2010. Although receipt of this invoice on December 22, 2010, would have justified the recording of this cost in the 2010 period, the circumstances surrounding this December invoice are unusual and suspect (because this represents the only "expensed" portion of software costs in 2010).

D. Directors' & Officers' Liability Insurance

Q: Please summarize your adjustment related to Directors' & Officers' Liability Insurance.

A: This adjustment removes 100 percent of 2010 directors' and officers' (D&O) insurance expense of $22,457.[21]

Q: Why should D&O liability insurance costs be removed?

A: PacifiCorp's D&O insurance policy was inherited when MEHC acquired PacifiCorp and expires in March 2012. The costs of D&O insurance were prepaid into Account 132013 and are being amortized to Account 545000 over a six-year period that ends

[20] PacifiCorp Response to Public Counsel Data Request No. 345(d) explains this shift between accounts in December 2010, Attach. PC 345-1 shows this shift between accounts, and Attachment PC 345b-9 is a copy of the related invoice from Open Link.
[21] PacifiCorp Response to Public Counsel Data Request No. 98.

March 2012.[22] PacifiCorp states that it will not renew the D&O insurance policy after expiration in March 2012.[23] Because the D&O policy is close to expiring and will not be renewed in the future, these expenses should be removed from the test period for ratemaking purposes.

Q: Is there another reason this expense should be removed from this case?

A: Yes. PacifiCorp's D&O insurance policy only applies to claims for events occurring prior to the MEHC acquisition.[24] Because the policy only covers claims restricted to events occurring more than six years ago and prior to the acquisition, this policy should not be recovered through rates from the Company's current customers.

E. 2010 Non-Union Payroll Raises

Q: Please summarize your adjustment for Non-Union Payroll Raises?

A: This adjustment removes the Washington portion of payroll costs related to average raises of .88 percent awarded in 2010 to non-union employees. This adjustment totals $85,525 (including $79,799 of escalation pay plus $5,726 of related FICA/payroll tax costs).

Q: What was the range of 2010 non-union pay raises implemented by the Company?

A: In January 2010, PacifiCorp implemented an average pay increase of .88 percent for non-union employees.[25] This average represents three percent pay increases granted to 27 non-union employees and maximum pay increases of five percent for certain

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[22] *Id.*
[23] PacifiCorp Response to Public Counsel Data Request No. 264.
[24] PacifiCorp Response to Public Counsel Data Request No. 98.
[25] Exhibit No. RBD-3 pp. 4.3.3 and 4.3.4.

other employees; 798 non-union employees received no pay increase at all.[26]

Q: Please summarize your primary concerns and reasons for removing the 2010 non-union pay raise.

A: The current economic downturn dictates that the Company, rather than ratepayers, should absorb the costs of its non-union payroll increases. Across the public and private sectors, employers have held the line on payroll costs and raises.[27] Nationwide, at least 46 states have imposed cuts since 2008 due to the recession.[28] In June 2011 Washington state implemented salary reductions for most state employees[29] and eliminated numerous positions.[30]

Moreover, PacifiCorp's Washington service territory includes some of the counties hardest hit by the recent economic downturn. Recent U.S. Census data shows that Walla Walla and Yakima counties–PacifiCorp's primary service territories in Washington–have median household incomes that are $13,000 below the state average.[31] Yakima and Walla Walla counties have the fifth and seventh highest rates

[26] PacifiCorp Response to Public Counsel Data Request No. 96, Attach. PC 96.
[27] *IndustryWeek*'s 2010 salary survey of manufacturing companies found that 22 percent of respondents experienced reductions in base salaries and 49 percent reported having their base salaries frozen over the past year . Survey of 1,259 U.S. manufacturing managers in December 2009 and January 2010. *See* http://www.industryweek.com/articles/industryweeks_2010_salary_survey_down_but_not_out_21080.aspx?ShowAll=1.
[28] At least 44 states and the District of Columbia have reduced overall wages paid to state workers by laying off workers, requiring them to take unpaid leave (furloughs), freezing new hires, or similar actions. Center on Budget and Policy Priorities, dated February 9, 2011: http://www.cbpp.org/cms/index.cfm?fa=view&id=1214.
[29] *See* Washington State Human Resources, "Temporary Salary Reduction," *at* http://www.dop.wa.gov/COMPCLASS/TEMPSALARYREDUCTION/Pages/default.aspx.
[30] *See* Mike Baker, "Layoff notices begin to go out to state workers," *Seattle Times* (Jul 6, 2011), *available at* http://seattletimes.nwsource.com/html/localnews/2015529476_layoffs07.html.
[31] *See WUTC v. PacifiCorp d/b/a Pacific Power and Light Co*., Docket No. UE-100749, Exhibit No. CME-1T, p. 6-19-22 (citing 2009 U.S. Census data) (Eberdt Responsive).

of poverty in the state respectively. It is estimated that 23.9 percent of Yakima's residents live in poverty, compared to twelve percent on a statewide basis.[32]

Q: Has any other commission recently ruled that PacifiCorp's wage increases should be disallowed due to the economic downturn?

A: Yes. On February 28, 2011, the Idaho Public Utilities Commission issued an order in a PacifiCorp general rate case disallowing wage increases for 2009 and 2010, stating:

> The Commission finds that in challenging economic times the local economy in the Company's service area is a greater indicator as to the appropriateness of a wage increase than market data and industry averages. We find no demonstration by the Company that the union and non-union wage increases were required for the Company to be a competitive employer able to retain or attract employees. We find no evidence that without the union and non-union wage increase the service provided by the Company would be degraded and safety compromised. We find that as a certificated provider of service [Rocky Mountain Power] has elected to be a member of the communities it serves. We find Staff's proposed wage adjustment to be reasonable. The Company may choose to implement its wage increases, but we will not allow recovery of that expense from its Idaho customers.[33]

F. Property and Liability Insurance

Q: Please summarize your adjustment for Property and Liability Insurance.

A: PacifiCorp proposes an adjustment to replace its existing captive insurance coverage with its "self insurance" for third-party liability, transmission and distribution (T&D)

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[32] "Small Area Income and Poverty Estimates, 2010 – percent in poverty, all ages, " U.S. Census Bureau, *at* http://www.census.gove/did/www/saipe/data/statecounty/maps/2010.html. Finally, the Company admits that, in 2010, it did not provide merit increases to employees earning more than $100,000 annually, in recognition of the challenges facing the economy and the Company's customers. PacifiCorp Response to Public Counsel Data Request No. 262. The fact that the Company admits that it attempted to hold the line somewhat on non-union pay increases in 2010 lends credence to my adjustment because the Company has already realized some cost savings that can help to absorb the adjustment I propose.

[33] Idaho Public Utilities Commission, Case No. PAC-E-10-07, Order 32196 at 18-19.

property, and non-T&D property.[34] The Company's proposed "self insurance" adjustment increases expenses by $317,266. I recommend that the Company's "self insurance" adjustment be rejected.

Q: Can you explain PacifiCorp's "self insurance" method?

A: Existing captive insurance is in place through March 31, 2011 and will not continue beyond that point. The Company's adjustment essentially removes the cost of captive insurance from the test period and replaces it with the Company's estimate of "self insurance" through December 31, 2011. PacifiCorp will accrue estimated "self insurance" costs by debiting an expense account and crediting a reserve account. Actual damages are charged against the reserve account and are not charged to expense. If the expense accruals exceed actual costs charged to the reserve, then the reserve balance will grow. PacifiCorp claims that in future periods (and in future rate cases), the expense accruals will be adjusted to keep the reserve at a reasonable level.[35] If damage or liability is sustained in any year, then the amount of deductible would be charged to the appropriate expense account in that year and damages in excess of the deductible would be charged against the reserve.[36] Thus, the higher the deductible established by the Company, the greater the amount of deductible expensed in that year.

Q: Why do you disagree with the Company's "self insurance" method and the use of the term "self insurance"?

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[34] The Company uses an accrual method to calculate part of this expense based on a 3 to 3.75 year average of actual claims accruals. The average accrual period varies by type of insurance. *See* Exhibit No. RBD-1T, p. 19: 3-16.
[35] PacifiCorp Response to Public Counsel Data Request No. 143.
[36] PacifiCorp Response to Public Counsel Data Request No. 145.

A: PacifiCorp could not identify any other utility that uses this "self insurance" approach, and could not identify any regulatory agency that has approved this approach.[37] This is because the term "self insurance," as used by PacifiCorp, is a misnomer and does not really exist in the industry. PacifiCorp's method is not really self insurance, but simply a means by which the Company seeks to fund future possible damages in advance, and collect these amounts in rates from customers before actual damages occur.

This is problematic for a number of reasons. Most importantly, if the amount of the reserve accrual expense recorded annually is not accurate or not properly adjusted each year, then PacifiCorp could over-collect. Additionally, if PacifiCorp establishes an excessive expense accrual and does not come in for a rate case each year to adjust its expense and reserve balance, it is possible that the Company could continue to collect excessive amounts for an indefinite period.

Moreover, it is not necessary to pre-fund the cost of future damages through rates. The actual cost of damages can be paid on a year-by-year basis as actually incurred, sometimes referred to the pay-as-you-go approach. This is the typical means by which storm damage, tree trimming, and most other types of cost are handled.

Q: What are other problems with PacifiCorp's "self insurance" method?

A: There are numerous additional problems. First, there is no third-party fiduciary monitoring the "self insurance" reserve fund, so the Company could withdraw amounts from this fund at its discretion for any reasons and without any oversight, penalty, repercussions, or third-party internal controls. The Company admits that no

[37] PacifiCorp Response to Public Counsel Data Request No. 151.

other entities will be involved in the self insurance process.[38] Second, the "self insurance" plan/policy is not formally documented in writing, thus no specific terms, conditions, coverage requirements, or other important matters are formally documented. Further, there is no written documentation as to what type of assets, structures, liability, or events are covered by the so-called "self insurance." There is no written documentation regarding how and when claims are to be paid. Therefore, compliance cannot be monitored and there are no controls over Company actions. Technically, there cannot be a legal violation if no written rules exist, so the Company has the discretion to take actions it desires without any penalty or knowledge by other parties.

In addition, the Company could not cite to any precedent in the insurance industry or utility industry for its method of calculating its self insurance reserve expense accrual amount. Finally, **[BEGIN CONFIDENTIAL]** XXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.[39] **[END CONFIDENTIAL]**

Q: You indicated that the term "self insurance" is a misnomer and there is no other cited utility precedent outside of a PacifiCorp affiliate, but doesn't PacifiCorp claim it has self insured for certain damages dating back to 2002?

A: PacifiCorp claims that it has "self insured" for some T&D and non-T&D losses since

[38] PacifiCorp Response to Public Counsel Data Request No. 144.
[39] PacifiCorp Response to UTC Data Request No. 107, Confidential Attach. 107.

2002.[40] However, PacifiCorp admits that the UTC did not previously order it to use self insurance for this T&D coverage, thus it does not appear that the Commission has "approved" this so-called "self insurance" component.[41] Also, in the Company's prior rate case, Docket No. UE-100749, the Company did not propose an adjustment for this expense.[42] Therefore, it is not clear that the Commission and parties were aware that the Company was already using a "self insurance" approach, and I do not believe this issue was reviewed in detail in the prior proceeding because the Company did not propose any adjustment.

Q: Did you remove the Company's permanent timing difference that increased federal income tax expense by $137,326?

A: Yes. The Company shows both an increase in insurance/O&M expense and a related increase in federal income taxes associated to the permanent timing difference resulting from the "self insurance" approach. I am proposing that the Company use a pay-as-you-go approach for damages in the future, so there should be no permanent timing difference. The pay-as-you-go approach will instead cause a change in income taxes consistent with the related change in expenses. Also, it will not be necessary to recognize a permanent timing difference under a pay-as-you-go approach because [**BEGIN CONFIDENTIAL**] XXXXXXXXXXXXXXXXXXXXXXXXX

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[40] PacifiCorp Response to Public Counsel Data Request No. 308. The Company's previous "self insurance" for some T&D and non-T&D losses would be replaced by its new proposed program. I have concerns regarding the amounts that PacifiCorp is claiming for its previous T&D and non-T&D losses "self insurance." This previous coverage of sorts started out as captive insurance with a $6 million cap approved by state regulatory commissions, and the Company subsequently charged additional accruals to the related reserve to cover additional losses in the past several years that exceed $6 million. This represents the property damage insurance expense of $8,644,574 (all jurisdictions) that is removed and replaced by the Company's "self insurance" adjustment calculation as one component of the Company's current self insurance adjustment.

[41] PacifiCorp Response to Public Counsel Data Request No. 247.

[42] *Id.*

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX.[43] [**END CONFIDENTIAL**] Under my proposal, the insurance premiums and proceeds between MEHC and the Company would be removed.

G. Costs Paid for Settling Litigation

Q: Please summarize your adjustment for Costs Paid for Settling Litigation.

A: This adjustment removes Washington allocated costs paid for settling litigation (hereinafter referred to as “settlement costs”) of $835,107. These settlement costs are not related to any state or federal utility regulation cases, but are related to other litigation. This adjustment consists of three parts, calculated as adjustments to the Company’s unadjusted book amounts. First, the adjustment reflects additional adjustments to settlement costs that I have identified separate from any of the Company’s adjustments, resulting in a reduction of $375,845.[44] Second, my adjustment makes $307,834 in corrections and revisions to PacifiCorp’s Non-recurring Entries Adjustment 4.5, related to non-recurring entries that includes some of the same type of settlement costs.[45] Finally, my adjustment reflects $151,428 in certain adjustments that were included in the Company’s Non-recurring Adjustment workpaper 4.5, but which do not appear to have been reflected in the Company’s Summary of Total Adjustments and the related revenue requirement.

[43] PacifiCorp Response to UTC Staff Data Request No. 107, Confidential Attach. WUTC-107-1.
[44] PacifiCorp Response to Public Counsel Data Request No. 204, Attach. PC-204.
[45] I have accepted some items included in the Company’s adjustment, and these will serve as additions to my proposed settlements expense adjustment. Also, I have rejected other items included in the Company’s adjustment because these amounts include duplicate expenses and other problems and are not reflected in the Company’s unadjusted books, so it will not be necessary to show an additional adjustment for these amounts.

Q: Will you explain the first part of your adjustment?

A: This adjustment removes the following settlement costs[46] based on the related reasons provided.[47]

TABLE 2: SETTLEMENT COSTS REMOVED

[BEGIN CONFIDENTIAL]

	XXXXXX	**XXXXXXXXXXXXXXXXX**
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXX	XXXXXX	XXXXXX
XXXXX	**XXXX**	

[END CONFIDENTIAL]

Removing these costs for ratemaking purposes is appropriate because these costs are

[46] Only the expense amount for the Wah Chang litigation is not included in the "settlement expense" category, but is instead included in "third party liability claims and accruals" category.
[47] The adjustment amounts are from PacifiCorp Confidential Response to Public Counsel Data Request No. 204, Attach. PC-204.

non-recurring, represent noncompliance matters, relate solely to non-Washington matters, or some combination of these reasons.[48] As to those costs that appear to be related to fees paid for possible compliance violations, PacifiCorp has already stated that it removed certain similar costs shown at Confidential Attachment PC-204 (and per Company adjustment 4.5 related to nonrecurring costs) from the test period because it was assumed that settlements involving compliance violations would not be recurring in the future.[49] In addition, some of these settlement costs appear to be similar to other settlement costs removed by the Company in its Non-Recurring Entries Adjustment 4.5, because the Company has not specifically explained and provided supporting documentation to show how it selectively included and excluded other settlement costs in its adjustment.

Moreover, PacifiCorp did not provide any specific documentation explaining why these costs should not be removed from the test period. Finally, these costs may already be double-recovered from accruals for legal expenses that cannot be fully reconciled.

Q: Will you explain the second part of your adjustment?

A: This part of the adjustment consists of settlement costs of $307,834 which the Company correctly included in its Non-Recurring Entries Adjustment 4.5, but which must be included as part of my adjustments since my adjustments are posted to the Company's "unadjusted" books.[50]

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[48] One of the line item settlement costs is related to the Wah Chang complaint addressed in PacifiCorp's FERC Form No. 1 for 2010.

[49] PacifiCorp Response to Public Counsel Data Request No. 341.

[50] These amounts are reflected as nonrecurring expenses (debit amounts) on the Company's books, and the

TABLE 3: NON-RECURRING SETTLEMENT COSTS REMOVED[51]

[BEGIN CONFIDENTIAL]

	XXXXXX	**XXXXXXXXXX**
XXXXX	XXXXXXXXXXXXXX	XXXXXXXXXXXXXX
XXXXX	XXXXXXXXXXXXXX	XXXXXXXXXXXXXX
XXXXX	**XXXX**	

[END CONFIDENTIAL]

Q: **Will you explain the third part of your adjustment related to Company adjustments included at supporting workpapers but not reflected in the Company's adjusted revenue requirement?**

A: The Company's Non-recurring Entries Adjustment workpaper 4.5 includes two line items with the related Washington jurisdiction costs, "Jim Bridger Turbine Upgrade – Account 557 – ($246,928)", and "Remove East Side Electric Lake Charges" – Account 557 - $95,500." I could not trace these amounts to the Company's Summary of Total Adjustments at page 1.8, to column 4.5, related to the Company's adjustment

Company's Non-recurring Entries Adjustment 4.5 properly removes these amounts (by showing them as offsetting credit amounts). However, the Company's Non-recurring Entries Adjustment 4.5 appears to be incorrect, because it also shows these two amounts as debits. Therefore, there is the debit amount on the original books for these two items, plus the debit and credit amount in the Company's adjustment for these two items, and this results in a "net debit" amount for these two entries (two debits netted with one credit), when in reality these amounts should have been removed from the Company's books to equal a net amount of zero. This same problem may exist for other amounts at the Company's adjustment that could not be fully reconciled. In addition, there appear to be amounts included in the Company's adjustment as shown at Confidential Attach. PC- 4, which could not be identified or reconciled to amounts at Confidential Attach. PC-204. However, I have not adjusted for all of these amounts due to difficulties with reconciling these items. In conclusion, I have not accepted the Company's adjustment in total and there are various other revisions that would need to be made to the Company's adjustment before it would be acceptable (including additional adjustment for the amounts in the table below that appear to be duplicated in the Company's adjustment).

[51] The adjustment amounts included in the table are from PacifiCorp Confidential Responses to Public Counsel Data Requests Nos. 204, Attach. PC-204; and, 4, Attach. PC-4.

to Remove Nonrecurring Entries. The net impact of these two adjustments is a reduction to Account 557000 of $151,428.

Q: Did you have difficulty reconciling and tracing settlement costs from the Company's adjustment workpaper to the various data request responses?

A: Yes. For most of the settlement costs included in the Company's response to Public Counsel Data Request No. 340, there was no adequate explanation and reconciliation of amounts included in the Company's Non-recurring Entries Adjustment or to the amounts included at the Company's responses to Public Counsel Data Requests Nos. 4 and 204. It is possible that the Company may be able to provide additional information to reconcile part or all of these amounts. However, at this time, I am not able to perform this reconciliation.

H. Impute Income on Intercompany Federal Tax Receivable

Q: Please summarize your adjustment for Imputed Income on Intercompany Federal Tax Receivable.

A**:** This adjustment imputes Washington allocated income of $1,268,160 to the cost of service. At December 31, 2010, MEHC owed PacifiCorp $344,671,476 (all jurisdictions) for federal and state income tax payments that were remitted to MEHC by PacifiCorp. Allowing MEHC to retain these significant funds owed to PacifiCorp essentially provides MEHC a cost-free loan. Also, PacifiCorp loses the opportunity of not having these funds available, which could have a negative impact on its revenue requirement in this rate case. Therefore, I have imputed a stream of income to PacifiCorp from MEHC to reflect the economic reality and to treat it as a third-party arms-length transaction.

Q: Will you explain this transaction in more detail?

A: At December 31, 2010, PacifiCorp had an Intercompany Tax Receivable on its books for an amount owed for federal and state income taxes from MEHC in the amount of $344,671,476 (all jurisdictions). According to Section V ("Other Transactions") of the 2010 Affiliate Management Report, PacifiCorp is party to a tax-sharing arrangement and is part of the Berkshire Hathaway United States federal income tax return, although PacifiCorp's provision for income taxes is computed on a stand-alone basis. PacifiCorp remits federal and certain state income tax payments to PPW Holdings LLC, and these payments are then remitted to MEHC.

In March 2011 the IRS released Revenue Procedure 2011-26 that caused the reduction of the receivable to an amount of $164,695,101 (all jurisdictions) at March 31, 2011. Thus, MEHC currently owes PacifiCorp an amount for reimbursement of taxes paid by PacifiCorp to MEHC.

Q: Will you explain how you calculated your adjustment?

A: It is not reasonable to allow MEHC to retain these funds and thereby essentially receive a cost-free loan from PacifiCorp. Accordingly, I have imputed a stream of income to PacifiCorp from MEHC to reflect the economic substance of this transaction, and I have multiplied the balance owed to PacifiCorp by the Company's overall cost of capital percentage to impute the missed opportunities of having these funds.

My calculation is conservative. Although the outstanding balance owed to PacifiCorp for total federal and state income taxes was $344,671,476 as of December 31, 2011, the balance for federal taxes owed declined to $290,051,488 as of March 31,

2011. I used a twelve-month average of the receivable balance from the period April 30, 2010 to March 31, 2011, and the receivable balance for the federal income tax amount.[52] I multiplied the twelve-month average balance by a seven percent Washington allocation factor and then multiplied this amount by PacifiCorp's overall rate-of-return (ROR) of 9.8 percent that was granted by UTC in the prior rate case proceeding. I used the overall ROR because this is a reasonable surrogate for the return or alternative use of funds that PacifiCorp is otherwise denied. There may be alternative ways to treat this transaction in the cost of service. However, I believe the approach that I use is reasonable and conservative.

I. Executive Compensation

Q: What is your recommendation on executive compensation?

A: I recommend that the Commission require PacifiCorp to file a report regarding its executive compensation practices and accounting. The intent of this report would be to provide the Commission and other parties' information necessary to evaluate whether there should be any further adjustment to PacifiCorp's revenue requirement with respect to executive compensation in the future. I am recommending such a report because I have concerns regarding the overall level of compensation paid to executives, as well as the level of compensation that PacifiCorp allocates to its utility operations.[53]

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[52] This is because Washington does not have a state income tax, so the state tax receivable balance related to other states would not be appropriate to use.

[53] PacifiCorp allocates 6.481 percent of all executives' salaries to Washington operations regardless of what operating Company they work for. This percentage was developed as part of the WCA methodology. **[BEGIN CONFIDENTIAL]** XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. **[END CONFIDENTIAL]** PacifiCorp Response to Public Counsel Data Request No. 224, Confidential Attach. PC-224.

Q: Has the Commission recently ordered a utility to file a report on executive compensation?

A: Yes. In Docket Nos. UE-110876 and UG-110877 (consolidated), the Commission conditioned its approval of the proposed settlement by requiring a subsequent filing from Avista corporation regarding executive compensation.

Q: What are your particular concerns in this case?

A: I have two major concerns. First, I am concerned that PacifiCorp's overall level of compensation for its named executive officers and other high-ranking employees is excessive. My second concern is that PacifiCorp is over-allocating executive compensation expenses to utility operations.

Q: Please explain your concern regarding PacifiCorp's overall level of compensation for its executives.

A: In 2010, PacifiCorp President Mr. Reiten received $265,740 base salary and a $275,000 annual incentive payment.[54] In addition, Mr. Reiten received various benefits and other compensation totaling $36,796. Mr. Reiten received an additional $553,466 in long-term incentive compensation, which brings his total compensation to well over $1 million.[55] Mr. Reiten's overall compensation has steadily increased in

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[54] PacifiCorp's 2010 S.E.C. Form 10-K, pp. 167-69.

[55] PacifiCorp's other executives received comparably high compensation in 2010. PacifiCorp Response to Public Counsel Data Request No. 17, Confidential Attach. PC-17. In 2010, the Company allocated a **[BEGIN CONFIDENTIAL]** XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXX **[END CONFIDENTIAL]** *See* PacifiCorp Response to ICNU Data Request No. 2.11, Confidential Attach. ICNU-2.11.

recent years, and in this case, the Company is requesting to recover from ratepayers an additional 1.96 percent increase in Mr. Reiten's salary effective January 2011. [56]

Q: Could you please explain your second concern regarding allocation of executive compensation between utility and nonutility operations?

A: It appears that PacifiCorp may be over-allocating executive compensation to utility operations. PacifiCorp allocated almost all executive salary costs to utility operations. In this case, I focused on the allocation of Mr. Reiten's compensation because he is the highest-paid Pacific Power & Light executive. A side-by-side comparison of Mr. Reiten's timekeeping records and his Outlook calendar for 2010 shows that Mr. Reiten's timekeeping records do not reflect how Mr. Reiten actually spent his time. Specifically, the timekeeping records do not show time spent by Mr. Reiten on non-utility-related tasks or tasks related to non-recoverable items, such as civic and charitable activities (hereinafter "non-utility tasks").

As a sample, I compared Mr. Reiten's timekeeping entries and Outlook calendar for just the first week of January, 2010. In that week, Mr. Reiten recorded eight hours on each day to general "REGW" (regular wages), and no hours to any other order/cost center (i.e., task).[57] Thus, the timekeeping records indicate that Mr. Reiten spent all of his time during that week on utility-related duties. However, Mr. Reiten's Outlook calendar shows that during that week, Mr. Reiten actually spent time on **[BEGIN CONFIDENTIAL]**XXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

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[56] *See* PacifiCorp Response to Public Counsel Data Request No. 91 1st Revised, part (c) and Confidential Attach. 91.
[57] PacifiCorp Response to Public Counsel Data Request No. 31, Attach. PC-31, p. 24.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXX.[58] XXXXXXXXXXXXXXXX XXXXXXXXXXXXX:

- XXXXXXXXXXXXXXXXXXXXXXXXXXXX
- XXXXXXXXXXXXXXXX
- XXXXXXXXXXXXXXXXXXXXXXXXXXX
- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
- XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.[59]

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXX.**[END CONFIDENTIAL]**

The rest of Mr. Reiten's January calendar reveals a similar pattern. [**BEGIN CONFIDENTIAL]** XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

[58] PacifiCorp Response to Public Counsel Data Request No. 30 1st Suppl., Confidential Attach. PC-30, pp. 1-8.
[59] PacifiCorp Response to Public Counsel Data Request No. 287, Confidential Attach. PC-287(a).

XXXXXXXXXXXXXXXXXXXXXX.[60] XXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXX.[61] **[END CONFIDENTIAL]** Despite this, Mr. Reiten's official timekeeping records allocate all but 2.5 hours of his time during the entire month of January to the general "REGW" category.

Q: Please explain in more detail the information you recommend be included in a report on executive compensation?

A: At a minimum, the report that I am recommending should contain the following information for at least PacifiCorp's 30 highest-paid employees:

(a) A description of current executive compensation, including <u>but not limited to</u> base salary, incentive pay, other bonus/awards, pension/retirement plan, perquisites, and other benefits. This description should state what elements and amounts are included in rates for the Company on a Company-wide and Washington-only basis, what amounts are expensed versus capitalized, and what elements and amounts are not recovered through rates.

(b) A description of how compensation for the 30 highest-paid employees is allocated among the various states in PacifiCorp's service territory and why, in PacifiCorp's opinion, this allocation method is proper.

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[60] *Id.*

[61] PacifiCorp Response to Public Counsel Data Request No. 287, Confidential Attach. PC-287(b)-(d). The Company redacted materials it claims are not related to either PacifiCorp or MEHC. Of the remaining materials, it appears that only **[BEGIN CONFIDENTIAL]** XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX. **[END CONFIDENTIAL]**

(c) A description of how compensation for the 30 highest-paid employees is set, including a description and copy of all formal and informal compensation surveys that the Company relies upon and how these survey results relate, and are applied, to PacifiCorp. All underlying compensation surveys and other information that is included as part of the MarketPay data and is relied upon to determine "market-based" pay should be provided, along with all supporting calculations prepared by PacifiCorp or its affiliates. PacifiCorp should also state whether it considers compensation paid by other Pacific Northwest investor-owned or publicly-owned utilities, and if not, why not.

(d) A detailed explanation of all assumptions used in determining "market-based" pay from MarketPay and other sources. Also, show how the data from MarketPay translates to establishing parameters for Company pay grades of various job positions, and then explain and show which employees received pay increases and how much of a pay increase (increases in base pay, incentives, awards, benefits, or total compensation) based on the specific MarketPay data and related Company analysis.

(e) A detailed explanation of how short- and long-term incentive pay is determined and the specific criteria and targets used to determine incentives, including how incentives are determined to be at "market-based" levels or at higher or lower levels.

(f) A discussion of PacifiCorp's perspective on whether and, if so why, the existing levels of executive compensation are appropriate for recovery in utility rates.

PacifiCorp should work with Commission Staff and other parties to determine the form and content of the report. PacifiCorp should also ensure that its next Washington general rate case includes the most current information on the items listed above.

J. Bonuses Included in MEHC Fees

Q: Please summarize your adjustment for the MEHC Affiliate Management Fee.

A: I am recommending that $136,883 be disallowed. This is the amount paid by PacifiCorp to MEHC for MEHC and MEC employee bonuses (hereinafter referred to as "MEHC bonuses").[62]

Q: What is the Affiliate Management Fee (AMF)?

A: PacifiCorp has entered into an Intercompany Administrative Services Agreement (IASA) with its parent company, MEHC. Under this agreement, PacifiCorp is either directly assigned or allocated MEHC and MEC operating expenses.[63] The types of expenses governed by the IASA include costs associated with, among other things: MEHC and MEC employees including executives and upper-management base

[62] I refer to these amounts as bonuses because that is how PacifiCorp has previously identified them on their own invoices and SEC filings. *WUTC v. PacifiCorp, d/b/a Pacific Power & Light Co.*, Docket No. UE-100749, Exhibit Nos. RBD-20, pp. 2-3 and DKS-4, p. 7. It is also how the Idaho Commission identified them in its most recent PacifiCorp rate case order. *In the Matter of the Application of Rocky Mountain Power for Approval of Changes to its Electric Service Schedules and a Price Increase of $32.7 million, or Approximately 15.0 Percent,* IPUC Case No. PAC-E-10-07, Order No. 32196 (Feb. 28, 2011) (hereinafter "*Idaho Order*").
[63] PacifiCorp Response to Public Counsel Data Request No. 312.

salaries and bonuses,[64] use of the MEHC aircraft, financial services, information technology (IT) services, and supply chain and purchasing.[65] I have been informed that the amount allowable in Washington rates for the AMF is currently capped at $7.3 million on a Company-wide basis.

In 2010, PacifiCorp was invoiced $15,667,977 by MEHC for the AMF. PacifiCorp capitalized a portion of the AMF, and booked another portion (related to lobbying expenses, long-term incentive compensation, and aircraft costs in excess of commercial equivalents) below-the-line.[66] In all, PacifiCorp booked roughly $7.5 million in expenses associated with the AMF to regulated expense accounts.

Q: What amount of the AMF has PacifiCorp proposed to include in this case?

A: For purposes of this case, PacifiCorp has agreed to remove from the roughly $7.5 million booked to regulated accounts, the portion of the AMF related to MEHC's supplement executive retirement programs (SERP). PacifiCorp has also agreed to remove amounts that it found were incorrectly booked above-the-line,[67] and amounts related to CEO meals and entertainment.[68] In total, PacifiCorp is proposing to include $7,266,311 of total company MEHC AMF expenses in this case.[69]

Q: Has PacifiCorp confirmed that MEHC bonuses <u>are</u> included in the $7,266,311 of total company MEHC AMF expenses in this case?

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[64] PacifiCorp Response to Public Counsel Data Request No. 123(b) (stating in part, "[a] significant portion of the costs invoiced by MEHC related to charges for PacifiCorp's chairman and chief executive officer, who is an MEHC employee").
[65] PacifiCorp Response to Public Counsel Data Request No. 365, Attach. PC-365.
[66] PacifiCorp Response to Public Counsel Data Request No. 39, Attach. PC-39.
[67] PacifiCorp Response to Public Counsel Data Request No. 39.
[68] PacifiCorp Responses to Public Counsel Data Requests Nos. 179 and 364. PacifiCorp was unwilling to provide documentation or explanation of these expenses.
[69] PacifiCorp Response to Public Counsel Data Request No. 365.

A: Yes. PacifiCorp confirmed through discovery that the MEHC bonuses are included in the test year in this proceeding.[70] In addition, in testimony submitted in the Company's current Idaho general rate case, PacifiCorp witness, Steven R. McDougal, states that this amount includes "$1.9 million related to the Annual Incentive Plan (AIP) costs paid to employees of PacifiCorp affiliates and billed to PacifiCorp through the MEHC management fee."[71] PacifiCorp has not shown that these bonuses are prudent, market-based, based on objective and measurable criteria that provide benefits to customers, or that they benefit Washington ratepayers.

Q: Has PacifiCorp shown that the MEHC bonuses are related to the Company's Washington service obligation or that Washington ratepayers should be required to pay this expense?

A: No. PacifiCorp has provided no information about the MEHC incentive program, such as a program description or sample program goals.[72] Moreover, MEHC's sole function is to serve as a holding company for various subsidiaries; it does not directly serve PacifiCorp's retail customers. Thus, any incentive payments may be tied more closely to the accomplishments of the corporate parent and not the operating utility, or tied to criteria that is more beneficial to shareholders than to ratepayers, such as increases in stock price or earnings that are compared to the performance of peer companies.

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[70] PacifiCorp Response to Public Counsel Data Request No. 365.
[71] *In the Matter of the Application of Rocky Mountain Power for Approval of Changes to its Electric Service Schedules and a Price Increase of $32.7 million, or Approximately 15.0 Percent,* IPUC Case No. PAC-E-11-12, Direct testimony of Steven R. McDougal, pp. 12-13 (filed May 27, 2011).
[72] PacifiCorp Response to Public Counsel Data Request No. 331.

In addition, there is no evidence that MEHC and MEC executives provide a level of services to PacifiCorp commensurate with the amount of Compensation paid to them by PacifiCorp. For example, PacifiCorp paid CEO Gregory Abel nearly $1.5 million for his services, $1.217 million of which was attributable to Mr. Abel's 2010 bonus.[73] However, Mr. Abel serves numerous roles within MEHC and its subsidiaries across the globe.[74] Beyond MEHC, Mr. Abel spends time serving on the boards and committees of numerous other industry, community, educational, and charitable organizations.[75] Although the Company has not provided specific documentation identifying how Mr. Abel's time is spent, this is a legitimate concern as it relates to allocation of compensation between PacifiCorp and other/non-regulated activities.

Q: Can you please explain what impact, if any, the cap set in Docket No. UE-051090 has on your recommendation?

A: The cap set in Docket No. UE-051090 has no impact on my recommendation. My recommendation is not based on whether PacifiCorp is, or is not, in compliance with the merger cap. The Company is clearly seeking an amount below the cap, which includes the MEHC bonuses at issue here.

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[73] PacifiCorp Response to Public Counsel Data Request No. 375, Attach. PC-375a. The total CEO expense that PacifiCorp proposed including in the current test period is $1,564,703. *See* Exhibit No. RBD-3, p. 4.10.1.

[74] Mr. Abel is chairman, president, and CEO of MEHC, as well as chairman of Northern Powergrid, which distributes electricity to approximately 3.7 million customers in Great Britain. Mr. Abel also is also a director of Kern River Gas Transmission Company and Northern Natural Gas Company. In addition, Mr. Abel serves on the boards of at least twelve other MEHC affiliates. *See* "Corporate Governance, Gregory E. Abel," *at* http://www.midamerican.com/aboutus3.aspx.

[75] Mr. Abel served on the boards of the Edison Electric Institute and the Greater Des Moines Partnership. He also serves on the Nuclear Electric Insurance Limited board of directors, the Kum & Go, L.C. board of directors, the Drake University board of trustees, the executive board of the Mid-Iowa Council Boy Scouts of America and the American Football Coaches Foundation board of directors. *Id.*

Q: Are you aware of whether the Commission addressed this issue in PacifiCorp's last Washington Rate case?

A: Yes. In its Final Order, the Commission rejected a recommendation to reduce the AMF. The Commission stated:

> We conclude that the Joint Parties misconstrue the merger commitment and apply the wrong methodology. Our order establishing the $7.3 million "cap" simply means that *any* expenses over that level will be deemed unreasonable for Washington ratepayers to bear and will be disallowed. The Company's proposed management fee is well below the cap. Accordingly, we allow the $7.11 million in MEHC management fees.[76]

In a footnote, the Commission noted:

> That having been said, we are less than enthusiastic about some of the expenses included in the fee. During the hearing, there was considerable discussion about the bonus paid to MEHC's chief executive officer (CEO). It is difficult for us to reconcile the general concept of "bonuses" with the Company's assertion that it is undergoing "belt-tightening" measures to reduce costs. However, the amount of the CEO bonus allocated to Washington ratepayers is $102,000.[77]

Q: Are there circumstances here that warrant the Commission re-examining this issue?

A: Yes. There are three circumstances that I believe warrant re-examination of this issue. First, as discussed above, the circumstances of this case do not implicate the cap placed on AMF established in Docket No. UE-051090. Second, bonuses paid to MEHC executives have increased substantially in the past few years,[78] despite the fact

[76] *WUTC v. PacifiCorp d/b/a Pacific Power & Light, Co.* Docket No. UE-100749, Final Order (Order 06), ¶ 239.
[77] *Id.* at n.346.
[78] MEHC 2010 Form 10-K, p. 145. All MEHC named-executive officers (with the exception of David Sokol, who resigned part-way through the year) received substantially higher bonuses in 2010 than they had received in 2008. Only one officer received a lesser bonus in 2010 than in 2009—General Counsel, Douglas Anderson, received $558,397 in 2008, $922,618 in 2009, and $905,687 in 2010.

that household incomes in PacifiCorp's Washington service territory have decreased during the same time.[79] Finally, the Idaho Commission recently addressed this issue and determined that MEHC bonuses should not be recovered through rates.

Q: Please explain the increase in MEHC executive bonuses.

A: In 2010, Mr. Abel received a $6 million bonus. This is $1 million *more* than Mr. Abel received in 2009. Put otherwise, Mr. Abel's bonus increased 20 percent in one year. PacifiCorp was charged and is asking to recover on a Company-wide basis $1.217 million of Mr. Abel's bonus.[80] Put into perspective, PacifiCorp is asking to recover a bonus for Mr. Abel alone that is more than 26 times the average household income in the Washington counties that it serves.[81]

Q: As to the last circumstance, how was this issue addressed in PacifiCorp's most recently decided Idaho general rate case?

A: The Idaho Commission (IPUC) determined in PacifiCorp's 2010 general rate case in that state that MEHC bonuses should not be recovered from ratepayers. In that case, IPUC Staff recommended that MEHC bonuses be adjusted out of the case.[82] In response, PacifiCorp argued that the MEHC bonuses were appropriately included in regulated rates because they were individual components of "total compensation

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[79] Office of Financial Management, Median Household Income Estimates by County: 1989 to 210 and Projection for 2011 (last updated October 2011), *available at* http://www.ofm.wa.gov/economy/hhinc/ (hereinafter "OFM Income Table").

[80] PacifiCorp Response to Public Counsel Data Request No. 375, Attach. PC-375a. Mr. Abel received this $6 million bonus in addition to a $1 million base salary and other compensation of $352,642, bringing his total compensation to $8,445,642. MEHC 2010 Form 10-K, p. 145. Mr. Abel's total compensation has been increasing steadily in the last two years. *Id.*

[81] OFM Income Table.

[82] *Idaho Order*, p. 21.

packages similar to those provided to PacifiCorp employees."[83] In holding that MEHC bonuses were not recoverable, the Idaho Commission stated:

> We find Staff's adjustment removing… bonuses to employees of MidAmerican to be reasonable. We find that the Company has failed to demonstrate that these fees are related to the Company's Idaho service obligation and that Idaho customers should be required to pay this expense.[84]

Q: Did PacifiCorp accept this adjustment in its currently-pending Idaho general rate case?

A: Yes. In its 2011 Idaho general rate case, PacifiCorp initially proposed including MEHC bonuses despite the Commission's previous decision that they were improper.[85] However, in the settlement stipulation reached between PacifiCorp and all but one party, PacifiCorp agreed to remove MEHC bonuses.[86]

K. Charitable Contributions

Q: **Will you summarize your adjustment for Charitable Contributions?**

A: Yes. PacifiCorp stated in discovery that the Company did not book any charitable contributions above-the-line.[87] However, a review of transaction details for a number of FERC accounts indicates that PacifiCorp did indeed book certain charitable expenses above-the-line.[88] My adjustment removes $769 for charitable expenses.

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[83] *Id.,* p. 22.
[84] *Id.*
[85] *In the Matter of the Application of Rocky Mountain Power for Approval of Changes to its Electric Service Schedules and a Price Increase of $32.7 million, or Approximately 15.0 Percent,* IPUC Case No. PAC-E-11-12, Direct testimony of Steven R. McDougal, pp. 12-13 (filed May 27, 2011).
[86] *In the Matter of the Application of Rocky Mountain Power for Approval of Changes to its Electric Service Schedules and a Price Increase of $32.7 million, or Approximately 15.0 Percent,* IPUC Case No. PAC-E-11-12, Stipulation Testimony of J. Ted Weston, p. 4 (filed Nov. 2, 2011).
[87] PacifiCorp Response to Public Counsel Data Request No. 13.
[88] PacifiCorp Responses to Public Counsel Data Requests Nos. 7, 52, 59, 172, and 371 show that the Company booked above-the-line costs for a Sponsorship 2010 Indian Day Celebration, the Summer Youth Connect Roosevelt High School, and a Sponsorship of 2010 Fall Semester MBA Field Study, University of Utah. These

Q: Are charitable contributions recoverable under Washington Law?

A: It is my understanding that Washington law prohibits recovery of charitable contributions in rates. In *Jewell v. Washington Utilities and Transportation Commission*,[89] the Washington State Supreme Court held that the Commission lacks statutory authority to allow a regulated utility to recover charitable contributions as an expense for ratemaking purposes. This was recently affirmed by the Thurston County Superior Court.[90]

Q: Did you review all transactions in every A&G FERC account to identify costs associated with charitable contributions?

A: No. Due to resource constraints my review was targeted in nature and did not encompass all expenses in all A&G FERC accounts. This means that, while I did find a number of transactions included in test year expense associated with charitable activities, there could very well be additional expenses improperly included in the test year.

L. Employee Meals and Entertainment Expenses

Q: Please summarize your adjustment for employee meals and entertainment expenses.

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events are all sponsorship-based. In addition, PacifiCorp booked various travel costs associated with the Horatio Alger Scholarship Event and Buffalo Bill Cody Museum Patron's Ball, both of which are scholarship or fundraiser events. Further, PacifiCorp did not appropriately record costs billed for PacifiCorp employee time on matters associated with the PacifiCorp Foundation, the charitable giving branch of the Company.

[89] 90 Wn.2d 775, 777-779 (1978).

[90] *Wash. State Attorney General's Office Pub. Counsel Section v. WUTC and Avista Corp.*, Case No. 09-2001721-2, Order Affirming Final Order of WUTC in all Respects but Two, and Reversing and Remanding in Part, Thurston County Superior Court (February 2, 2010) (holding that the UTC erred in allowing Avista to recover costs of charitable contributions).

A: I recommend that costs for employee meals and entertainment be shared equally among ratepayers and shareholders. This adjustment reduces the Washington revenue requirement by $39,912. These expenses are discretionary and above and beyond the total compensation—including benefits and incentives—paid to PacifiCorp's employees. The Company has not provided sufficient support for why these costs should be borne by ratepayers alone. Further, given the economic environment, such discretionary spending should not be fully funded by ratepayers.

Q: Please provide some background on the Company's treatment of these costs in this case.

A: PacifiCorp includes in test year expenses a variety of costs for employee meals and entertainment, including employee appreciation dinners, lunches, picnics, retirement events and gift cards, all of which it charged 100 percent to ratepayers.[91]

Through discovery, the Company provided total costs for various categories of meals and entertainment expenses included in the test year.[92] These are summarized in the table below.

TABLE 4: MEAL AND ENTERTAINMENT EXPENSE AMOUNTS

Expense Category	Amount
Catering	$ 7,552
Meals and Entertainment	$56,144
Off-Site Facility Rentals for Employee Appreciation Events	$44.49
On-Site Meals	$16,085
Total	**$79,825**

[91] PacifiCorp Response to Public Counsel Data Request No. 15. Examples of these are shown in PacifiCorp Responses to Public Counsel Data Requests Nos. 59, 256, and 333, including a Safety & Harvest Appreciation Dinner, $3,281 for an Employee Picnic Dinner, and an Executive Dinner Event at the Arlington Club which included $293 in beverage charges and $534 in dinner charges for the single event.
[92] PacifiCorp Response to Public Counsel Data Request No. 333.

Q: Please explain your concerns and reasons for your adjustment.

A: In the current economic environment, it is appropriate to expect PacifiCorp to reign in discretionary spending such as meals and entertainment for its employees. It is not reasonable to expect ratepayers to bear the entire burden of executive dinner events and various employee appreciation events and meals at any time, but especially in periods of economic decline. In addition, other utility commissions have recognized that sharing meals and entertainment expenses between shareholders and ratepayers is appropriate. For example, in a recent Portland General Electric (PGE) case, the Oregon Commission ordered PGE to allocate 50 percent of meals and entertainment expenses to shareholders, acknowledging that "costs for gifts and foods are discretionary and should be equally shared by ratepayers and shareholders."[93]

M. Legislative and Lobbying Costs

Q: Please summarize your adjustment for legislative and lobbying costs in this case.

A: I am recommending that the following expenses associated with legislative or lobbying activities be removed from the test year:

(1) 50 percent of wages/labor for employees whose duties include legislative and lobbying activities;

(2) 50 percent of costs associated with the Pacific Power and Rocky Mountain Power Regional Advisory Boards; and,

(3) All miscellaneous meeting costs and expenses related to legislative activities.

[93] *In the matter of Portland General Electric Company Request for a General Rate Revision*, Docket No. UE-197, Order No. 09-020, p. 20.

My total adjustment for legislative and lobbying costs is $29,688.

Q: Are lobbying and legislative costs recoverable under Washington law?

A: It is my understanding that Washington law prohibits investor-owned utilities from collecting from ratepayers "direct or indirect expenditures for political or legislative activities."[94] The three types of expenses I am recommending be shared or removed appear to be just these types of expenses.

Q: Please provide some background on the Company's treatment of legislative and lobbying costs.

A: PacifiCorp booked legislative and lobbying costs across a number of FERC accounts. These include labor-related costs for employees who perform legislative and lobbying activities, costs associated with the Pacific Power and Rocky Mountain Power Regional Advisory Boards, and miscellaneous meeting costs and expenses related to promoting legislation.

Q: What has PacifiCorp included in this case with regard to legislative employee costs?

A: PacifiCorp includes a portion of the wages and benefits for seven employees whose job functions relate primarily to government affairs and influencing legislation. The Company indicates that it has allocated a fraction of these employees' wages to non-utility accounts. However, this fraction is not sufficient to reflect how these employees actually spent their time. For example, of the total wages booked for all of the employees listed above, approximately 77 percent in aggregate, were booked in

[94] WAC 480-90-213 (gas) and 480-100-213 (electric).

above-the-line, test year accounts.[95] In addition, the Company has not removed <u>any</u> non-wages costs, such as pension, post-retirement, and workers compensation.

Q: What information has PacifiCorp provided regarding these employees/positions?

A: PacifiCorp has provided the titles, job descriptions, duties, and responsibilities of these positions.[96] This information indicates that the overall functions of these positions are related to lobbying and legislative activities. Duties associated with these positions include representing the Company at legislative hearings, state agency, and other public meetings. Additionally, these employees are charged with developing issue and tactical strategies with internal colleagues, PacifiCorp's lobby team, and external associations and coalitions. As described by the Company, these positions are clearly associated with legislative activity for MEHC, MEC, and PacifiCorp. Please see Exhibit No. BCO-4 for further detail of these job descriptions.

While PacifiCorp provided time sheets for these employees that show that these employees spent more time on regulatory activities than legislative tasks, PacifiCorp provided no explanation for this.[97] This is troubling given that the job descriptions for these positions charge these employees with many legislative tasks.

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[95] Total wages for the seven employees listed above is **[BEGIN CONFIDENTIAL]** XXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. **[END CONFIDENTIAL]**. PacifiCorp Response to Public Counsel Data Requests Nos. 252, Confidential Attach. PC 252a; and, 253, Attach. PC 253b.

[96] These positions include the following: Public Affairs Representative Government Affairs Career; Public Affairs Representative Government Affairs Associate; Senior Vice President for MidAmerican Energy Holdings Company, Regulation and Legislation; Director, Government Affairs for Pacific Power; and Director, Government Affairs for Rocky Mountain Power. PacifiCorp Response to Public Counsel Data Request No. 253, Attach A; and PacifiCorp Response to Public Counsel Data Request 156.

[97] PacifiCorp Response to Public Counsel Data Request No. 156, Attach. PC-156d1 through156d4; and, PacifiCorp Response to Public Counsel Data Request No. 253, Attach. PC-253c.

This discrepancy suggests that the Company is over-allocating time spent on regulatory matters for these employees.

Q: In sum, what is your recommendation with regard to legislative employee costs?

A: I recommend that half of the costs allocated to utility accounts for these employees be removed. This adjustment more reasonably allocates costs for legislative activities to non-utility accounts. The total dollar amount of this adjustment is **[BEGIN CONFDIENTIAL]** XXXXX.[98] **[END CONFIDENTIAL]**

Q: Please discuss the Pacific Power and Rocky Mountain Power Regional Advisory Board costs that you recommend should be disallowed.

A: PacifiCorp maintains two regional advisory boards: the Pacific Power Regional Advisory Board and the Rocky Mountain Regional Advisory Board. PacifiCorp includes all expenses associated with these Advisory Boards, including $2,500 annual compensation to each member, as well as dinners for Board Members, lodging, directors' fees and compensation, travel expenses reimbursement, and estimated loaded labor costs for PacifiCorp employee time spent on Board activities during 2010. On a Washington allocated basis, the total expenses included in test year costs for the Regional Advisory Boards in test year costs is $1,431.[99]

I am recommending that 50 percent, or $715 in total costs be disallowed. One of the primary functions of the regional advisory boards is to provide opportunities to

[98] Total Washington-allocated costs included in the test year for these employees is provided in response to Public Counsel Data Requests Nos. 253, Attach. PC-253b; and, 252, Confidential Attach. PC-252a.

[99] PacifiCorp Response to Public Counsel Data Request No. 169, Attach. 169b and PacifiCorp Response to Public Counsel Data Request No. 362, Attach. PC-362.

further the Company's political and legislative priorities. The full descriptions of the purpose of each board and its members is included as Exhibit No. BCO-5.

Q: Please describe the final component of your legislative and lobbying adjustment.

A: PacifiCorp includes in test year expenses the costs for a number of miscellaneous expenses that can be traced to legislative activities. These include legal costs booked to the **[BEGIN CONFIDENTIAL]** XXXXXXXXXXXXXXXXXXXXXXXX XXXXXX[100] XXXXXXXXXXXXXXXXXXXXXXXXX[101]" XXXXXXXXXX XXXXXXXXXXXXXXXXX.**[END CONFIDENTIAL]** The total amount of these expenses is $2,734 on a Washington basis.[102] These expenses should also be removed from the test year.

N. Marketing and Advertising Expenses

Q: Please summarize your adjustment to marketing and advertising costs.

A: My adjustment reduces Washington jurisdictional advertising costs by $1,210. This adjustment removes advertising and marketing costs that are related to corporate image, sponsorship activities and the Company's Blue Sky renewable power program.

Q: Are advertising expenses related that are promotional, image-based, or Blue Sky recoverable under Washington law?

A: It is my understanding that Washington law prohibits recovery of promotional or image-related advertising. Primarily, WAC 480-100-223 provides:

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[100] PacifiCorp Confidential Response to Public Counsel Data Request No. 52, Attach. PC-52-s.1.
[101] *Id.*, Attach. PC-52-o.
[102] *See* Workpapers. This adjustment was calculated by combining the dollar amounts of all transactions labeled **[BEGIN CONFIDENTIAL]**XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX**[END CONFIDENTIAL]** in FERC Account 923, provided in response to PacifiCorp Response to Public Counsel Data Request 7, Attachment.

> The UTC will not allow expenses for . . . advertising to *encourage any person or business to select or use the service* or additional services of an electric utility, to select or install any appliance or equipment designed to use the electric utility's service, or *to influence consumers' opinions of the electric utility*.[103]

The Commission has previously disallowed advertising where the advertising was "clearly promotional" and "designed to encourage consumers to select the service of the utility."[104]

In addition, I have been informed that Washington law prohibits an electric utility from including in general rates any costs associated with optional renewable power programs, including costs associated with promoting such programs.[105]

Q: Please explain the Company's treatment of advertising and marketing costs in this case.

A: The Company includes, on a Washington jurisdictional basis, $213,720 in advertising expenses. These advertising costs are categorized by type and include "Information & Service/Efficiency & Conservation," "Legally Mandated," and "Other" advertising expenses.[106] In reviewing the costs included in the "Information & Service/Efficiency & Conservation," "Legally Mandated," and "Other" advertising expenses, it is apparent that costs for certain advertisements related to sponsorships, corporate image and the

[103] Emphasis added.
[104] *WUTC v. Wash. Natural Gas. Co.*, Docket No. UG-920840, Fourth Suppl. Order, p. 12. Numerous other states also disallow costs associated with promotional and image-related marketing and advertising. *See e.g., Re Artisan Water Company, Inc.*, 2006 WL 1815091 (Del.P.S.C. 2006); *Re Bay State Gas Co.*, 1992 WL 453358 (Mass.D.P.U. 1992); and *Re Northern States Power Co.*, 1993 WL 623464 (Minn.P.U.C. 1993).
[105] RCW 19.29A.090.
[106] The Company also incurs costs associated with "Image and Institutional" advertising, but these have been removed from rates. PacifiCorp Response to Public Counsel Data Request No. 12, Attach. PC-12.

Blue Sky Program—all costs that should have been booked below-the-line—were inappropriately included in rates in the categories noted above.

O. Membership Fees and Dues

Q: Did the Company include costs for membership dues and fees in test year expenses?

A: Yes. The total expense for dues and memberships on a Washington allocated basis is $447,304, including dues for a variety of national and regional trade memberships, civic organizations such as rotaries and chambers of commerce, and economic development organizations.[107] Also included in this case is a restating adjustment for dues and memberships, which reallocates system-allocated costs to specific states were possible.[108]

Q: Please describe your adjustment for membership dues and fees.

A: My adjustment to membership dues and fees has three parts. First, I remove certain dues and memberships that should not have been allocated to Washington. Second, I remove dues paid to civic organizations and dues for organizations whose primary purpose is lobbying. Finally, I remove a portion of Washington's allocation of dues paid to Edison Electric Institute (EEI). The total amount of the three components of these components is $30,554.

Q: Please explain the portion of your adjustment removing membership dues that should not have been allocated to Washington.

[107] PacifiCorp Response to Public Counsel Data Request No. 11.
[108] Exhibit No. RBD-3, p. 4.13.

A: Prior to the filing of this case, the Company and parties met to discuss this issue and agreed that, to the extent possible, membership expenses should be assigned to specific states (Situs assigned) rather than system allocated.[109] As a result, the Company included a restating adjustment reallocating system-assigned memberships expenses on Situs basis where possible. However, the Company did not appropriately reallocate or re-assign all memberships and dues.[110] The total dollar amount included in the test year for dues inappropriately allocated to Washington is $227.

Q: Please explain the second portion of your adjustment which removes dues for civic organizations and organizations with lobbying functions.

A: The Company includes costs for dues and fees for various Rotary clubs, chambers of commerce, economic development groups, and business development groups throughout its service territory.[111] Membership dues for these organizations should not be passed on to Washington ratepayers. In addition the Company pays dues to certain organizations that serve lobbying functions.[112] Ratepayers should not be forced to pay for such organizations through captive rates. If PacifiCorp chooses to support or sponsor such organizations, it should do so with shareholders' funds. The total dollar amount

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[109] The Commission's Order 06 in Docket No. UE-100749, encouraged PacifiCorp and parties to discuss means of refining the allocation of certain costs. *WUTC v. PacifiCorp, d/b/a Pacific Power & Light Co.*, Docket No. UE-100749, Order 06, ¶ 263.

[110] PacifiCorp Response to Public Counsel Data Requests Nos. 50 and 291. Specifically, PacifiCorp allocated costs to Washington for the Associated Tax Payers of Idaho, Inc., and the Montana Tax Foundation to Washington. In addition, the Company allocated costs to Washington for the Lloyd District Community Association, which is a business and neighborhood association serving residents in one neighborhood of Portland, Oregon, and the Marketing Executives Conference, which was attended <u>only</u> by Rocky Mountain Power employees.

[111] Examples include the Woodland Chamber of Commerce, Rotary International Yakima, and Utility Economic Development Association. PacifiCorp Response to Public Counsel Data Request No. 291.

[112] These include The Central Washington Homebuilders Inc., The Intermountain Electrical Association, and The Association of the US Army. PacifiCorp Response to Public Counsel Data Request No. 50.

included in Washington test year expenses for membership dues for these kinds of organizations is $15,084.[113]

Q: Are you aware of any precedent that supports your recommendation for civic organization dues?

A: It is my understanding that the Commission has previously determined that dues and membership fees for civic organizations should not be recovered through rates, stating: "[t]he costs of memberships in social, fraternal, and civic-spirited organizations are properly to be assigned to the company's shareholders."[114] In another case, the Commission ordered that club dues must consistently be borne only by shareholders:

> The Commission mindful of… of *Jewell v. Washington…* which both stated and implied certain limits upon the Commission's discretion in attributing expenses to ratepayers, is of the opinion that none of the club dues and similar expenses challenged in this item should hereafter be attributable to ratepayers, and that if the company chooses to continue to make such expenditures it should record the same as below-the-line items attributable to shareholders.[115]

Other states have likewise disallowed such dues on the grounds that they are not necessary to provide regulated services; "[d]ues in service clubs and Chambers of Commerce incurred by management but without any clear benefit in providing service, should not be allowed as an expense to be charged against the customers."[116]

[113] *See* Workpapers.
[114] *WUTC v. Cascade Natural Gas Corp.,* Docket No. U-78-76, Second Suppl. Order, p. 10.
[115] *WUTC. v. Puget Sound Power & Light Co.*, Docket No. U-78-21, Second Suppl. Order, pp. 59-60. *See also, WUTC. v. Wash. Natural Gas Co.,* Docket NO. U-79-15, Second Suppl. Order, pp. 26-27.
[116] *Re Michigan Bell Telephone Company* 32 P.U.R.3d 395 (M.P.S.C. 1960). *See also, In re Pacific Gas and Elec. Co.*, 2007 WL 879179 (Ca. P.U.C. 2007); *In re Hope Gas, Inc.*, 277 P.U.R.4th 410, 2009 WL 4912694 (W. Va. P.S.C. 2009); and, *Penn. Pub. Utility Comm'n, et al. v. The Columbia Water Co.*, 2009 WL 1708836 (Penn. P.U.C. 2009).

Q: Could you please summarize your recommendation with regard to EEI dues?

A: I recommend that those portions of EEI dues attributable to regulatory advocacy, advertising, public relations, and legislative advocacy and policy research, (43.99 percent of dues) be removed. This results in a $15,243 reduction to Washington operating expenses.

Q: What amount of dues did PacifiCorp state it paid to EEI in 2010?

A: PacifiCorp states that it paid a total of $836,044 to EEI in 2010.[117] Of this, $739,812 was core dues for the organization's regular activities, $74,981 was for specific "Industry Issues," $3,178 was for the Mutual Assistance Program, and $19,072 was for a contribution to the Edison Foundation.[118] PacifiCorp also paid an additional $54,075 to support EEI's membership in the Utility Solid Waste Activities Group (USWAG).[119]

Q: Did the Company book any portion of 2010 EEI dues below-the-line?

A: Yes. PacifiCorp booked 16 percent of core membership dues and 35 percent of "Industry Issues" dues below-the-line based on EEI's original estimate of non-deductible lobbying expenses (which fall under the expense category of "Legislative Advocacy and Policy Research").[120] PacifiCorp also appropriately booked the Mutual Assistance program costs and contribution to the Edison Foundation below-the-line. PacifiCorp did not book any of its USWAG dues below the line.

Q: Please explain your adjustment.

[117] PacifiCorp Response to Public Counsel Data Request No. 368.
[118] PacifiCorp Response to WUTC Staff Data Request No. 3, Attach. WUTC-3-b1.
[119] PacifiCorp Response to Public Counsel Data Request No. 368.
[120] PacifiCorp Response to WUTC Staff Data Request No. 3, Attach WUTC 3-b1. PacifiCorp also booked the amount it paid toward the Mutual Assistance Program and the 2010 Contribution to the Edison Foundation below-the-line.

A: My adjustment consists of two parts. The first part reflects updated percentages provided by EEI for actual 2010 non-deductible expenditures. The actual figures provide a higher percentage of non-deductible expenses as shown below:

TABLE 5: EEI ESTIMATED AND ACTUAL LOBBYING COSTS[121]

	Regular Activities	**Industry Issues**	**USWAG Membership**
Estimate	16%	35%	N/A
Actual	23.4%	38.5%	3.8%
2010 PacifiCorp Amount	$739,812	$73,981	$54,075
Amount PacifiCorp removed	$118,370	$25,893	$0
Difference between estimate and actual	$54,746	$2,589	$2,054

I recommend that the amounts be adjusted to reflect the actual, rather than estimated, percentage of non-deductible lobbying costs. This results in a $4,276 reduction.[122]

Additionally, I recommend that the portion of core dues attributable to regulatory advocacy, advertising, and public relations be removed. The percentages of attributable to these three additional categories are:

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[121] PacifiCorp Response to Public Counsel Data Request No. 21, Attach. PC-21-1 and PacifiCorp Response to WUTC Staff Data Request No. 3, Attach. WUTC-3-b1.
[122] PacifiCorp allocates EEI dues between its operating jurisdictions on the SO factor (7.204%). Exhibit No. RBD-3, p. 4.13.3.

TABLE 6: EEI DUES NON-RECOVERABLE COST CATEGORIES

Category	Percentage of Dues
Regulatory Advocacy	16.49%
Advertising	1.9%
Public Relations	2.2%
Legislative Advocacy and Policy Research	23.4%
TOTAL	43.99%

The categories listed above are designated by NARUC and serve to provide regulatory commissions with information necessary for a determination of what amount of EEI dues, if any, are proper for inclusion in rates.[123]

When combined with the updated actual amount of non-deductible lobbying costs ("Legislative Advocacy and Policy Research"), this results in a $15,243 reduction to Washington operating expenses.

Q: What is the source of the information shown in the table above?

A: PacifiCorp provided information for actual 2010 advertising and public relations related to EEI.[124] However, the Company did not provide information regarding the percentage of 2010 dues that went to other cost categories.[125] Thus, I obtained a previous year's schedule of expenses for EEI that was publicly filed in another state regulatory

[123] Exhibit No. BCO-7.
[124] PacifiCorp's Response to Public Counsel Data Request No. 21, Attach. PC-21-2.
[125] PacifiCorp's Response to Public Counsel Data Request No. 381.

proceeding.[126] As PacifiCorp was unable to provide more recent information, it is proper to look to 2005 EEI budget information in this instance.[127]

Q: Why are these particular expense categories improper for inclusion in rates?

A: The "public relations" category includes costs for developing and promoting EEI and its members before various public entities and the media.[128] The "advertising" category of expenses relatesto image building and promoting electricity usage, and the "regulatory advocacy" category of expenses appears to relate to promotion of EEI policies and agendas before regulatory and rulemaking bodies and thus falls under the broad definition of non-recoverable costs indirectly related to legislation.[129] Therefore, removing these portions of dues is proper because they relate to promotional, political, and image-building activities.

Q: Are you aware of other state Commissions that disallow EEI dues spent on regulatory advocacy, advertising, public relations, and legislative advocacy and policy research?

A: Yes. The Wisconsin[130] and New York[131] commissions have both previously found that elimination of half of EEI dues was proper. In Missouri, Commission Staff recently recommended that <u>all</u> EEI dues be disallowed because the Company had failed to show that any portion of dues were attributable to activities benefitting

[126] Exhibit No. BCO-6.
[127] It is also notable that the percentage attributable to legislative advocacy and policy research shown in the 2005 schedule is less than the shown in the 2010 information provided by PacifiCorp. Exhibit No. BCO-7 and PacifiCorp Response to Public Counsel Data Request No. 21, Attach. PC-21-1.
[128] Exhibit No. BCO-7.
[129] *Id.*
[130] *In re Wisconsin Power and Light Co.,* 2007 WL 437187 (Wi.P.S.C. 2007) .
[131] *Rochester Gas and Elec. Corp.*, 1981 WL 341297 (N.Y.P.S.C. 1987) (holding that, despite a "lengthy presentation on the asserted benefits of membership in EEI…. RG&E's presentation has provided no basis for departing from our well-established policy of disallowing 50 percent of those dues").

ratepayers and EEI's primary purpose is to advocate for utility companies' interests before elected officials and regulatory bodies.[132]

III. RATE BASE ADJUSTMENTS

A. Plant Held for Future Use

Q: Please summarize your adjustment to remove Plant Held for Future Use.

A: This adjustment removes Plant Held for Future Use (PHFU) of $37,964 included in this case. The FERC uniform system of accounts requires that PHFU include a "definite plan for use" for this related plant. Public Counsel Data Request No. 217 asked PacifiCorp to provide a definite plan for use for this PHFU. PacifiCorp's response did not include a definite plan for use, but merely included two brief paragraphs describing that this plant is the cost of land that will be used for the expansion of the Troutdale Substation with an anticipated date of use of 2017, and for planned expansion of the Hazelwood Substation with an anticipated date of 2014.

I do not believe that it is reasonable to allow plant in rate base that will not be used and useful until 2014 and 2017. This raises concerns regarding inter-generational equity because today's ratepayers who are funding this future plant expansion may not be the same ratepayers gaining the benefit of that plant in 2014 and 2017 if these ratepayers move or otherwise cease to be customers of PacifiCorp. Similarly, those new customers to the PacifiCorp system in 2014 or 2017 will gain the benefit of this plant, but will arguably not have paid their fair share, or at least not as much as other ratepayers.

[132] *In the Matter of The Empire District Electric Company for Authority to File Tariff Increasing Rates for Electric Service*, Case No. ER-2010-0130, Surrebuttal Testimony of Casy Westhues (April 23, 2010), pp. 6-8. This case was resolved through a settlement that did not explicitly address EEI dues.

The Commission should remove this PHFU from rate base until at least one year before the plant will be placed in service.

Q: Does this conclude your testimony?

A: Yes.