

**BEFORE THE**

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of ) DOCKET NO. UE-032065  
)  
PACIFIC POWER & LIGHT )  
) INDUSTRIAL CUSTOMERS OF  
General Rate Increase of \$26.7 million ) NORTHWEST UTILITIES AND  
(13.5%) ) PUBLIC COUNSEL’S RESPONSE TO  
) MOTION TO STRIKE  
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)  
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\_\_\_\_\_ )

**I. INTRODUCTION**

1 Pursuant to WAC §§ 480-07-375(4) and 480-07-395, the Industrial Customers of Northwest Utilities (“ICNU”) and the Public Counsel Section of the Washington State Attorney General’s Office (“Public Counsel”) submit this response to the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) Staff’s (“Commission Staff”) motion to strike (“Motion”) portions of the rebuttal testimony and exhibits of PacifiCorp, d/b/a Pacific Power & Light Co. (“PacifiCorp” or the “Company”) witnesses Donald Furman, Andrea L. Kelly, Gregory N. Duvall, and David L. Taylor that address the Company’s revised inter-jurisdictional cost allocation proposal (“Revised Protocol”). Staff seeks to strike this testimony on the grounds that it is not proper rebuttal testimony, is inconsistent with the Commission’s procedural rules, and contrary to the public interest. While ICNU and Public Counsel agree with the Commission Staff that the aforementioned testimony is improper rebuttal testimony and has been improperly filed, ICNU and Public Counsel believe the proper remedy is not to

strike the testimony. Instead, the Commission should provide the parties with additional time to conduct discovery and present responsive/surrebuttal testimony regarding PacifiCorp's new proposal for the allocation of costs among its jurisdictions.

2                   Given the limited time available before hearings are scheduled to commence in this matter, ICNU and Public Counsel request an expedited review of the Motion and this Response.

## **II. STATEMENT OF FACTS**

3                   A complete factual background regarding the Company's multi-state cost allocation proposals is necessary to understand why this issue is in a state of confusion and requires Commission action. On December 16, 2003, PacifiCorp filed a new general rate case in Washington state, including new tariffs and pre-filed written testimony and accompanying exhibits from sixteen witnesses. Ms. Kelly sponsored the main substantive testimony on multi-state jurisdictional issues, including the details of the Company's Inter-jurisdictional Cost Allocation Protocol ("Original Protocol") that was attached as an exhibit to Ms. Kelly's testimony. The Original Protocol represented PacifiCorp's inter-jurisdictional cost allocation solution that includes the allocation factors that are applied to each component of the Company's revenue requirement calculation. Messrs. Duvall, MacRitchie and Taylor also sponsored direct testimony regarding the Original Protocol and Multi-state Process ("MSP") issues.

4                   Previously, on September 29, 2003, PacifiCorp filed its direct testimony and exhibits in separate proceedings regarding multi-state jurisdictional cost allocation

proceedings in Oregon, Utah, Wyoming, and Idaho.<sup>1/</sup> Ms. Kelly and Messrs. MacRitchie, Duvall and Taylor all sponsored testimony in these proceedings. The Protocol and testimony filed in these proceedings were substantially the same as the MSP documents the Company filed in this proceeding. Therefore, by December 2003, PacifiCorp had made the same proposal regarding multi-state cost allocation issues in all of its jurisdictions except California.

5                   PacifiCorp engaged in extensive negotiations with MSP participants in Oregon and Utah, and, by May 2004, it became apparent to the Company that it would need to significantly revise its Original Protocol and sponsor revised testimony to address the changes regarding multi-state cost allocation issues. PacifiCorp elected not to pursue negotiations with Washington parties on MSP issues. On May 7, 2004, PacifiCorp sent a letter to the MSP participants in Oregon, Utah, Idaho, and Wyoming enclosing for their review a final draft of the Revised Protocol.<sup>2/</sup> Ms. Kelly stated that the Revised Protocol would “form the basis of the Company’s upcoming filings in Utah, Idaho, Oregon, and Wyoming.”<sup>3/</sup> PacifiCorp did not state that it would revise its Washington filing nor did the Company explain why it did not intend to update its now outdated Washington testimony and exhibits.

6                   Later on May 21, 2004, PacifiCorp filed supplemental direct testimony from Ms. Kelly and Messrs. Duvall and Taylor and exhibits, including the Revised

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<sup>1/</sup> Re PacifiCorp, Oregon Public Utility Commission (“OPUC”) Docket No. UM 1050, Direct Testimony and Exhibits (Sept. 29, 2003); Re PacifiCorp, Utah Public Service Commission (“UPSC”) Docket No. 02-035-04, Direct Testimony and Exhibits (Sept. 29, 2003); Re PacifiCorp, Wyoming Public Service Commission Docket No. 20000-EI-02-183, Direct Testimony and Exhibits (Sept. 29, 2003); Re PacifiCorp, Idaho Public Utilities Commission Docket No. PAC-E-02-3, Direct Testimony and Exhibits (Sept. 29, 2003).

<sup>2/</sup> Letter from Andrea Kelly to MSP Participants (May 7, 2004) (Attachment A).

<sup>3/</sup> Id.

Protocol, in Oregon and Utah.<sup>4/</sup> The testimony and exhibits totaled 120 pages, approximately the same size as the testimony on multi-state issues originally filed in Washington. The Revised Protocol and supplemental testimony represented a significant shift in the Company's position on a number of important issues, including the proposed hydro endowment, the inter-state standing committee, the provisions to accommodate direct access, and the costs of existing qualifying facility ("QFs") contracts. The importance of the Revised Protocol is demonstrated in that it represents a significant revenue requirement adjustment between the Company's various jurisdictions, including an approximately \$2.5 million revenue requirement reduction for the Company's Washington operations.<sup>5/</sup>

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The Company has continued to make additions that have "resulted in further changes to the Revised Protocol."<sup>6/</sup> PacifiCorp entered into a stipulation with some of the Oregon MSP parties that made additional changes to the Revised Protocol. PacifiCorp also reached a settlement with the Utah MSP parties and filed an MSP Stipulation with the Utah Public Service Commission.<sup>7/</sup> The Stipulation in Utah guarantees Utah customers rate caps and uses new factors to allocate PacifiCorp's costs among its jurisdiction, including the use of the rolled-in allocation method.<sup>8/</sup> The latest version of the Revised Protocol also has numerous other changes, including the assignment of excess costs of new QF to individual states, changes to the hydro

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<sup>4/</sup> Re PacifiCorp, OPUC Docket No. UM 1050, Supplemental Direct Testimony and Exhibits (May 21, 2004); Re PacifiCorp, UPSC Docket No. 02-035-04, Supplemental Direct Testimony and Exhibits (May 21, 2004).

<sup>5/</sup> Exhibit No. \_\_ (DLT-20) (Taylor, Rebuttal) at 1.

<sup>6/</sup> Exhibit No. \_\_ (ALK-3T) (Kelly, Rebuttal) at 3: 17-18.

<sup>7/</sup> Id. at 3-4.

<sup>8/</sup> Exhibit No. \_\_ (RJF-1T) (Falkenberg, Direct) at 6.

endowment methodology, additional Mid-Columbia contracts allocated to the Northwest, and standing committee adjustments.<sup>9/</sup> PacifiCorp recognized that its Original and first Revised Protocol had been “superceded” by the Utah and Oregon stipulations.<sup>10/</sup>

8                   On June 22, 2004, counsel for ICNU deposed Ms. Kelly regarding PacifiCorp’s MSP proposal and other issues related to its inter-state jurisdictional cost allocation proposal. Ms. Kelly verified that the Company has updated its Original Protocol proposal in many substantive ways, but confirmed that the Company did not plan on submitting a revised version of the Protocol in Washington.<sup>11/</sup> Specifically, Ms. Kelly stated that “the Company, for the purposes of this Washington rate case, is proposing this [Original] Protocol” and that the Company did not have any plans to file the Revised Protocol with its rebuttal testimony.<sup>12/</sup> One major reason that ICNU deposed Ms. Kelly was to ascertain whether the Company intended to file supplemental testimony or include the Revised Protocol in its rebuttal case. This guided ICNU in its preparation of its only round of testimony.

9                   On July 2, 2004, Commission Staff and intervenors filed direct testimony that analyzed the Original Protocol filing. While responding to the Original Protocol, Commission Staff witness Alan Buckley expressed concern that Company might file the Revised Protocol on rebuttal and prevent the parties from having a meaningful opportunity to analyze or rebut the filing.<sup>13/</sup> In his testimony, ICNU witness Randall Falkenberg recognized that PacifiCorp had recently filed two more current versions of the

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<sup>9/</sup> Multi-State Process, OPUC Workshop (June 16, 2004) (Attachment B).

<sup>10/</sup> Letter from Paul Hickey to Stephen Oxley 1-2 (May 26, 2004) (Attachment C).

<sup>11/</sup> Exhibit No. \_\_ (RJF-18) (Excerpt of Deposition of Andrea Kelly) at 5.

<sup>12/</sup> Id. at 5, 9.

<sup>13/</sup> Exhibit No. \_\_ (APB-1T) (Buckley, Direct) at 10.

Protocol in Oregon and Utah, but focused his testimony on the Original Protocol because of PacifiCorp's assertion that it had no plans to file the Revised Protocol in Washington.<sup>14/</sup>

10                   On July 28, 2004, PacifiCorp filed its rebuttal testimony, including the Revised Protocol and supporting testimony and exhibits. PacifiCorp asserts that the Revised Protocol (and accompanying stipulations) are supported by most Oregon and Utah MSP participants, and that the Company has filed the most current version of the Revised Protocol in Wyoming and Idaho.<sup>15/</sup> Therefore, in all states, except Washington and California, PacifiCorp is requesting approval of the Revised Protocol.

11                   PacifiCorp's rebuttal testimony is unclear regarding whether it is requesting approval of the Original or Revised Protocol. PacifiCorp witness Don Furman states that the Company's "preference would be that Washington rates be established based on the Revised Protocol . . . ."<sup>16/</sup> Mr. Furman's testimony is supported by the rebuttal testimony of PacifiCorp witnesses explaining the Revised Protocol, testimony that is substantially the same as the testimony regarding the Revised Protocol that was filed in the Oregon and Utah MSP proceedings. For example, regarding the Revised Protocol, Mr. Taylor's testimony is nearly identical to his Oregon MSP testimony and provides a "detailed explanation of the changes in the classification and allocation procedures between the Revised Protocol and the Protocol filed with the Company's direct case."<sup>17/</sup> However, in the Oregon MSP proceeding, parties were provided an

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<sup>14/</sup> Exhibit No. \_\_ (RJF-1T) at 57.

<sup>15/</sup> Exhibit No. \_\_ (ALK-3T) (Kelly, Rebuttal) at 4.

<sup>16/</sup> Exhibit No. \_\_ (DNF-2T) (Furman, Rebuttal) at 7.

<sup>17/</sup> Exhibit No. \_\_ (DLT-13T) at 8.

opportunity to submit responsive testimony addressing the merits of the Revised Protocol.

12                   Cognizant of the fact that their late filing of the Revised Protocol has provided parties with no opportunity to respond, Mr. Furman states that the Company “would not oppose deciding this case on the basis of the original Protocol included in the Company’s direct case.”<sup>18/</sup> Essentially, the Company is willing to base Washington’s cost allocation upon a methodology that as been outdated by at least two more recent versions that have been filed in proceedings in its other jurisdictions that are addressing multi-state cost allocation issues. But apparently the Company is fine if the Commission accepts the Revised Protocol so long as it does not extend the schedule. In addition, this willingness to rely upon the outdated Original Protocol may be due to the fact that the Revised Protocol reduces the Washington revenue requirement by approximately \$2.5 million. However, ICNU witness Mr. Falkenberg makes adjustments to the Original Protocol that if adopted would reduce the revenue requirement by \$3.6 million.<sup>19/</sup>

13                   On August 24, 2004, PacifiCorp and Commission Staff filed a two-party Stipulation with the Commission. This partial settlement agreement appears to be based upon the Original Protocol.<sup>20/</sup> In addition, PacifiCorp agrees in the Stipulation not to oppose the Motion to Strike.<sup>21/</sup> Notwithstanding PacifiCorp’s change in position, ICNU

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<sup>18/</sup> Exhibit No. \_\_ (DNF-2T) at 7.

<sup>19/</sup> Exhibit No. \_\_ (RJF-1T) at 7; ICNU Response to Bench Request No. 7.

<sup>20/</sup> Stipulation at 3-4.

<sup>21/</sup> Id. at 4.

and Public Counsel believe the Commission will be better able to evaluate the reasonableness of the Stipulation in light of the Revised Protocol.<sup>22/</sup>

### III. RESPONSE

14 PacifiCorp's failure to timely file revisions to its Original Protocol, and the Commission Staff's filing of the Motion to Strike concurrent with their entering a settlement with the company has resulted in a procedural mess. Cost allocation issues are too important to be addressed in a haphazard fashion or for the Commission to approve a multi-state cost allocation proposal, even on an interim basis, based on an incomplete or inadequate record. However, PacifiCorp has presented the Commission with two unacceptable choices to approve: 1) an inaccurate and outdated multi-state allocation methodology that the Company has abandoned in all other jurisdictions and is supported by only the settling parties; or 2) a newly filed methodology without providing non-settling parties an opportunity to investigate it or present responsive testimony. The Commission should recognize that cost allocation issues should be fully investigated and properly addressed by providing the parties with an opportunity to conduct discovery and present testimony on PacifiCorp's preferred allocation methodology—the Revised Protocol.

15 The Company's testimony and exhibits regarding inter-jurisdictional cost allocation issues are fundamental to all the issues in this proceeding. Unlike other major substantive issues like power costs or rate of return, the inter-jurisdictional cost allocation methodology cannot be severed and reviewed in isolation because it impacts the revenue

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<sup>22/</sup> The Commission should not construe this position as support for the Revised Protocol by either ICNU or Public Counsel.



requirement calculations for all aspects of the Company's filing. The Commission recently recognized the difficulty in providing PacifiCorp with rate relief or in resolving issues related to its power costs without an accepted inter-jurisdictional cost allocation methodology.<sup>23/</sup>

16           The Company's pre-filed testimony regarding MSP-related issues is inaccurate and no longer represents the Company's proposal for resolving its inter-jurisdictional cost allocation issues in the rest of the states where it provides service. Since PacifiCorp initially filed its direct testimony in this proceeding, the Company has filed two substantial revisions of the Protocol and accompanying testimony and exhibits in other jurisdictions that are addressing MSP issues. The Company has also admitted that its previous filings, including both the Original Protocol and the first version of the Revised Protocol have been "superseded" and should be updated.<sup>24/</sup> Simply, the Original Protocol is not reflective of a reasonable inter-jurisdictional cost allocation proposal that the Company supports outside the context of its filed settlement proposal or will be approved in any other state. It is nonsensical for PacifiCorp to propose an allocation methodology that would be utilized in the state when the Company's avowed goal is to have all its jurisdictions adopt a consistent allocation methodology.<sup>25/</sup>

17           As pointed out in Staff's Motion to Strike, PacifiCorp's filing of the Revised Protocol does not constitute proper rebuttal testimony. Staff Motion at 5. The Revised Protocol is a substantive revision of the Company's direct testimony for which the Company should have sought leave of the presiding officer to file. WAC § 480-07-

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<sup>23/</sup> Re PacifiCorp, Docket Nos. UE-020417/UE-991832, Sixth/Eighth Suppl. Order at 14 (July 15, 2003).

<sup>24/</sup> Letter from Paul Hickey to Stephen Oxley 1 (May 26, 2004) (Attachment C).

<sup>25/</sup> Exhibit No. \_\_ (RJF-18) at 8.

460(b)(ii). However, instead of filing the Revised Protocol in late May when the Company knew the Original Protocol was outdated, the Company asserted the Original Protocol was appropriate for more than two months until PacifiCorp filed the Revised Protocol with its rebuttal testimony. PacifiCorp's actions have prevented parties from having an opportunity to present responsive testimony on the Company's actual proposed resolution of inter-jurisdictional cost allocation issues. This results in PacifiCorp inappropriately using its rebuttal testimony to "sand bag" ICNU and other parties.<sup>26/</sup>

18

The appropriate remedy for PacifiCorp's actions is not to strike the Revised Protocol and associated testimony, but rather to provide non-settling parties an opportunity to submit responsive testimony on the Revised Protocol. The Commission has the authority to allow parties to file surrebuttal testimony in response to new information that arises during rebuttal testimony.<sup>27/</sup> Striking the Revised Protocol, as proposed by Staff, is not appropriate because it would strike a more current and more accurate methodology while leaving an inaccurate and outdated proposal in the record. However, it is equally inappropriate to utilize the Revised Protocol because parties have not had an opportunity to submit testimony on the proposal. Therefore, the balanced and appropriate course of action is for the Commission to accept the Revised Protocol into the record, but allow non-settling parties an opportunity to address it in surrebuttal testimony. As the Company apparently fears, this may require the Company to extend the suspension period.

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<sup>26/</sup> See AT&T Communications of the Pac. Northwest, Inc. v. Verizon Northwest, Inc., Docket No. UT-020406, Seventh Suppl. Order at 9 n.1 (April 8, 2003).

<sup>27</sup> Id. at 9.

Granting non-settling parties an opportunity to conduct discovery and present surrebuttal testimony should not unreasonably delay the final order in this proceeding. ICNU and Public Counsel believe that such an investigation and surrebuttal testimony could be filed within six to eight weeks, only necessitating a short extension of the suspension period in this proceeding. It is important to remember that any delay could have been avoided or minimized had the Company promptly filed the Revised Protocol when it became aware the Original Protocol no longer represented PacifiCorp's position on multi-state cost allocation issues. The Company should not be permitted to use its delay in filing the Revised Protocol to force upon the Commission a Hobson's choice between two options, neither of which provide the Commission with an adequate record to resolve the Company's multi-state cost allocation issues.

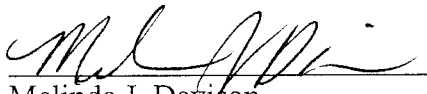
#### **IV. CONCLUSION**

ICNU and Public Counsel respectfully request that the Commission not strike the Revised Protocol, and provide non-settling parties an opportunity to submit surrebuttal testimony regarding the Revised Protocol.

Dated in Portland, Oregon, this 25th day of August, 2004.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.



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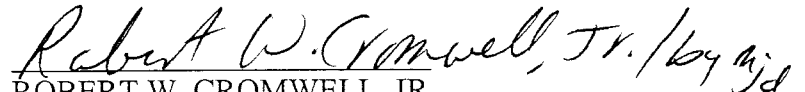
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Of Attorneys for Industrial Customers  
of Northwest Utilities

CHRSTINE O. GREGOIRE

Attorney General



ROBERT W. CROMWELL, JR.

Assistant Attorney General

Public Counsel

## Attachment A

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Letter from Andrea Kelly to MSP Participants (May 7, 2004)



May 7, 2004

To MSP Participants

RE: Revised Protocol

At the request of Bob Hanfling, the Company has enclosed for your information and review the final draft of the Revised Protocol and related Appendices that will form the basis of the Company's upcoming filings in Utah, Idaho, Oregon and Wyoming. Although the drafts are formatted as exhibits in the Utah proceeding, the same but reformatted documents will be submitted in each of the four states. Specifically, the package includes:

- *Revised Protocol*
- *Appendix A - Defined Terms*
- *Appendix B - Allocation Factor Applied to each Component of Revenue Requirement*
- *Appendix C - Allocation Factors - Algebraic Definitions*
- *Appendix D - Special Contracts*
- *Appendix E - Annual Embedded Costs - Example Calculation*
- *Appendix F - Methodology for Determining Mid-C (MC) Factor*

After you have an opportunity to review the documents, please feel free to contact me at (505) 813-6043 or Greg Duvall at (503) 813-7069 with any questions or comments. Thank you for your continuing efforts to reach a successful conclusion to the MSP.

Regards,

*Andrea Kelly*

Andrea Kelly  
Managing Director, Project Management

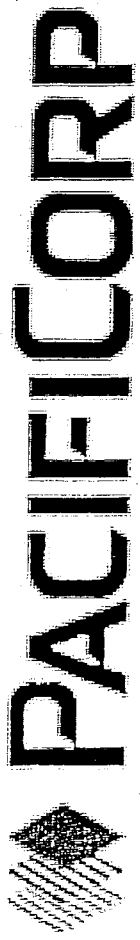


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## Attachment B

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Multi-State Process, OPUC Workshop (June 16, 2004)



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# Multi-State Process

OPUC Workshop

June 16, 2004



# Overview

- Events Since Last Workshop
- What's Changed: Revisions to Protocol
  - Hydro Endowment and Existing QF Contracts
  - Seasonal Resources
  - Load Growth Protections
- Forecasted Rate Impacts
- Benefits of Agreement
- Consequences of Failure
- Next Steps

## Events Since Last OPUC Workshop

- Robert Hanfling was re-engaged as mediator
- Several mediation meetings were held throughout the month of April –
  - Major breakthroughs
    - Agreement to Hydro Endowment methodology
    - Development of methodology to split the Mid-Columbia contract allocation
    - Agreement to Seasonal Resource criteria and allocation method
  - Unresolved areas remained
    - Lack of structural protection for load growth impacts
    - Early year rate impacts to UT and ID
    - Permanence of Hydro Endowment
- Additional state meetings continued in May
- Revised Protocol Filings were made in OR and UT followed by scheduling conferences
- Settlement in principle was reached with UT parties
- Discussions with Oregon and other states continue

## **What's Changed: Revisions to the Protocol**

- Removed Elements that did not enjoy broad support:
  - Coal endowment
  - Coal opt-out for Oregon
- Revised elements based on analyses and feedback:
  - Hydro endowment methodology
  - Greater Northwest allocation of Mid-Columbia contracts
  - Situs assignment of Existing QF contracts
- Added elements to improve the proposal:
  - Provisions accommodating load that permanently opts for direct access or new resource opt out
  - “Standing Neutral” to monitor issues among states
  - State assignment of excess costs of New QF Contracts, Special Contracts and Portfolio Standards

## Hydro Endowment and Existing QF Contracts

- Embedded Cost Differential Methodology:
  - Calculate the difference between the cost of Hydro Resources, Mid-Columbia Contracts and Existing QFs and the cost of all remaining resources on a \$/MWh basis.
  - Calculate a credit or charge equal to the cost difference multiplied by the normalized output of the resource
  - Spread the credit or charge among the states as adjustments to Rolled-In system allocations
- Mid-Columbia Contract Split:
  - Allocates all of the Mid-Columbia contracts system wide
  - Allocates a greater proportion of the benefits to Oregon and Washington
    - 70% to OR as compared to 28% under Rolled In
    - 12% to WA as compared to 8% under Rolled In
- Impacts:
  - Initially, the Co-owned Hydro adjustment benefits OR, WA, CA and WY, but becomes a cost as relicensing costs are incurred
  - Mid-C adjustment benefits OR and WA
  - Existing QF adjustment costs OR and CA, benefits other states
- Concerns remain among Oregon parties regarding permanence

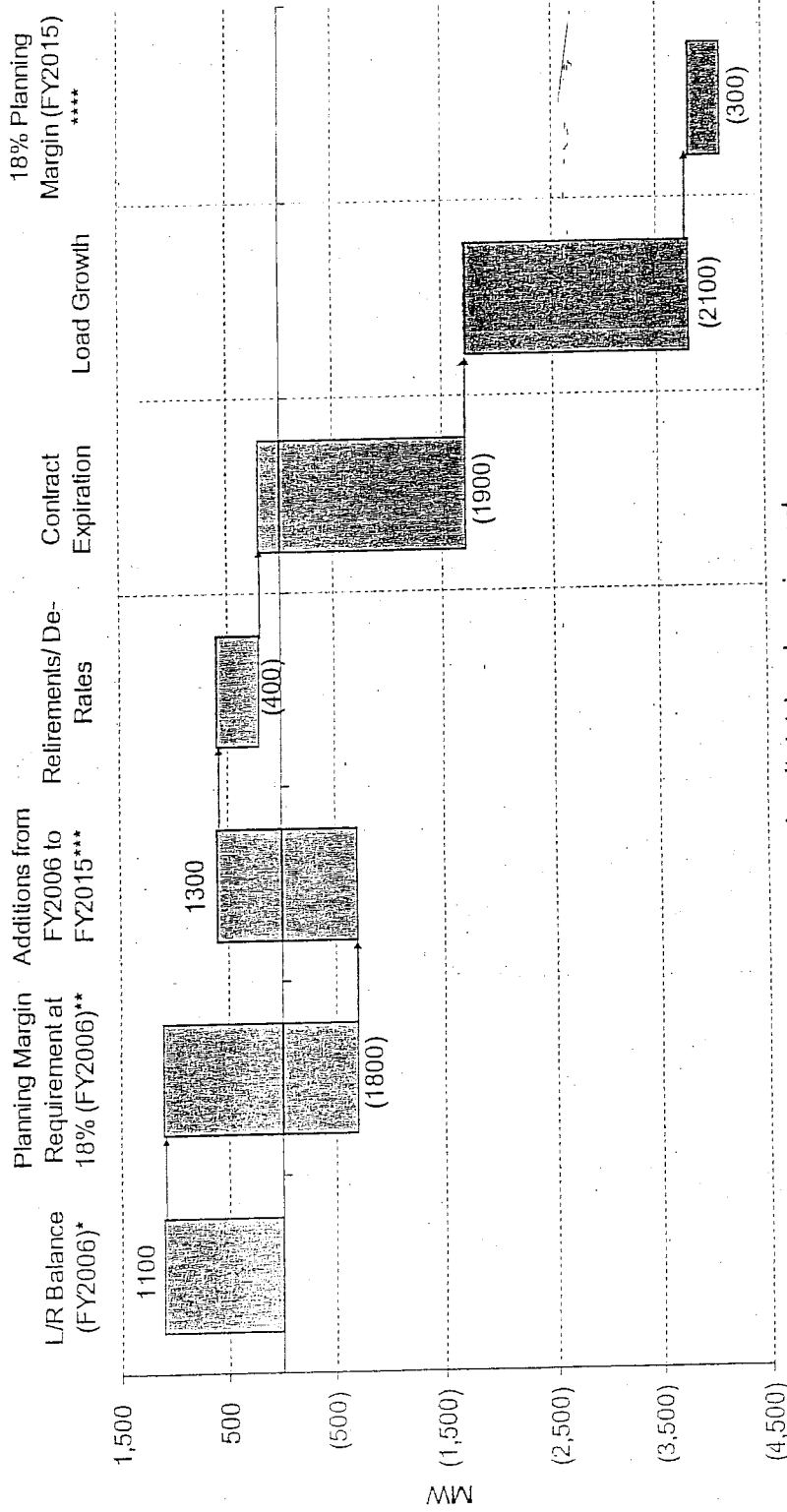
## Seasonal Resources

- Allocation remains the same as in the original Protocol
- Defines seasonal resources as SCCTs, Cholla/APS, and seasonal contracts
- Uses weighted monthly allocation factors to allocate fixed and variable costs to states
- Impacts:
  - States with greater share of load in summer are allocated a higher proportion of the costs
  - Forecast to benefit OR, CA, WY
  - Early year impacts are smaller, grow over time
- Revised Protocol includes continued study of seasonal criteria

## Load Growth Protections

- Company conducted numerous studies to analyze the range of potential impacts of one state growing faster than others
- Studies revealed that the growth state is allocated between 86% - 127% of the increase in total company revenue requirement
- Of the viable options currently available, the Embedded Cost Differential methodology provides the highest level of protection for slower growing states
- Revised Protocol requires continued study of cost shifts and load growth issues in concert with 2004 IRP development
  - Look at structural protection mechanisms such as tiered allocations, structural separation
  - Company to file a report by Fall of 2005 with detailed options
  - Issue will be evaluated in light of all relevant factors

# 2004 IRP Waterfall Chart - System



\* L/R Balance is PacifiCorp's total resources less its total peak requirement  
 \*\* L/R Balance with 18% planning margin requirement  
 \*\*\* Includes Lake Side, Currant Creek (245 MW), and renewables (1300 MW multiplied by 0.2, or 260 MW)  
 \*\*\*\* Incremental planning margin requirement by FY2015

- Waterfall charts identifies the major components that define the need in FY 2015.
- The major contributors to the short position include peak load growth, contract expirations, and planning margin

# Utah Rate Mitigation Settlement

- Stipulation still in final stage of negotiation
- Key Elements include:
  - Four-year Cap on Impact of Change in Allocations
  - Three-Year Premium over Protocol Results
  - Five-year Threshold for Continuation of Protocol
- Designed to have no impact on other states



## Benefits of Agreement

- Costs and benefits of hydro system preserved for NW States
- Creates a platform for implementation of direct access and large customer permanent opt-outs
- Maintains integrated system planning and operations
- Continues study of impacts from implementing the IRP
- Decreases risks to customers of upward pressure on rates
  - Continues access to capital and trading markets at reasonable terms
  - Improves ability to implement integrated resource plan
  - Enhances response to state policy differences while mitigating spillover effects
    - Qualifying facilities
    - Special contracts
    - Portfolio standards
- Proves that regional cooperation can be achieved
- Allows regulators and the Company to focus on other important policy issues

# Consequences of Failure

- Allocation shortfalls will likely grow
  - Absent resolution, states will polarize between Hybrid and Rolled In – both sides would claim most of the integration benefits from the merger
  - Without regional cooperation, allocation shortfalls could increase substantially and cause negative impacts on financial strength
- Long-term risks include:
  - Loss of six-state system planning and acquisition.
  - Degradation of system integration benefits valued at \$200-\$300 million over 14-years.
  - Higher financing costs -
    - Increase cost of debt
    - increase in cost of equity – a 1% change = \$55-\$60 million per year.
  - Potential for less favorable terms as a counterparty in long- and short-term wholesale markets.

## Next Steps –

- June 18, 2004 – File Stipulation with Utah PSC
- June 22, 2004 – File Revised Protocol and Testimony in WY
- July 2/9, 2004 – Oregon Staff/Intervenors file Direct Testimony
- July 8, 2004 – Wyoming Scheduling Conference
- July 2, 2004 – Utah Parties File Testimony in Support/Opposition of Stipulation
- July 20, 2004 – Oregon Parties File Rebuttal Testimony
- July 19 – 20, 2004 – Utah Hearings
- July 28 – 29, 2004 – Oregon Hearings

## Attachment C

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Letter from Paul Hickey to Stephen Oxley (May 26, 2004)



MAY 25 2004

Public Service Commission  
Wyoming

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Cecilia Gustafson  
Linda Huckfeldt  
Lee Bowen

May 26, 2004

VIA HAND DELIVERY

Stephen G. Oxley  
Secretary and Chief Counsel  
Wyoming Public Service Commission  
2515 Warren Avenue, Suite 300  
Cheyenne, WY 82002

RE: In the Matter of the Investigation By the Commission on its Own Motion of Interjurisdictional Issues Regarding the Business Organization of PacifiCorp and Related Matters, Docket No. 20000-EI-02-183, Record No. 7395.

Dear Steve:

In its Order Vacating Procedural Schedule issued on May 5, 2004, the Commission established today as the date for PacifiCorp to file "a revised MSP solution either [a] supported by the parties to this case, or [b] sponsored by PacifiCorp alone".

Yesterday, PacifiCorp reached a conceptual settlement (subject to documentation and final approvals) with the Utah Division of Public Utilities, the Utah Committee of Consumer Services and the Utah Industrial Energy Users. It is expected that the settlement will be reflected in a Stipulation to be filed with the Utah Public Service Commission no later than June 18, 2004.

The settlement with the Utah parties will require some changes to the Revised Protocol document that PacifiCorp would have otherwise filed in Wyoming today. Rather than filing a document in Wyoming that is soon to be superceded, PacifiCorp hereby respectfully requests a further modification of the procedural schedule in this docket.

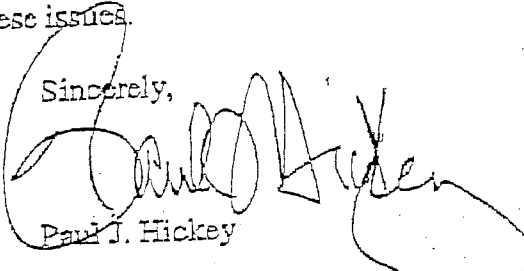
Page Two  
Stephen G. Oxley  
May 26, 2004

Specifically, PacifiCorp proposes that the deadline for filing a revised MSP solution be delayed until June 22, 2004 and that a prehearing conference be set for July 8, 2004. As of July 8, 2004, it should be known whether the Utah settlement has been consummated and whether the Staff of the Public Utility Commission of Oregon is supportive of the terms of the Protocol adopted in the Utah settlement. This should provide Wyoming parties the information they need to establish a schedule for further proceedings in Wyoming.

I am able to represent that counsel for Wyoming Industrial Energy Consumers does not oppose this request. We have not been able to speak with Mr. Reyes as I understand he has been in hearings today.

Thank you for your attention to these issues.

Sincerely,



Paul J. Hickey

PJH/1lh

Cc: Tom O'Donnell  
Robert Hix  
George McCluskey  
Denise Parrish  
Anthony Reyes  
James Spiers  
James Tarpey  
Ivan Williams  
Dave Lucero  
Clyde Dailey  
George Galloway  
Andrea Kelly

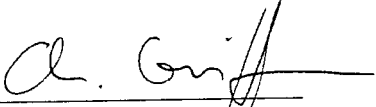
## CERTIFICATE OF SERVICE

I hereby certify that I have this day served these documents upon all parties of record in this proceeding, by mailing a copy thereof in a sealed, first-class postage prepaid envelope to each individual's last-known address, as listed below.

DATED at Portland, Oregon this 25th day of August, 2004.

Davison Van Cleve, P.C.

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