

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UE-111190
TRANSPORTATION COMMISSION,)	
	)	ORDER 07
Complainant,)	
	)	FINAL ORDER APPROVING AND
v.	)	ADOPTING SETTLEMENT;
	)	DENYING, WITHOUT
PACIFICORP D/B/A PACIFIC	)	PREJUDICE, THE REQUEST FOR
POWER & LIGHT COMPANY,	)	COMMISSION PARTICIPATION
	)	IN WORKSHOP; AND
Respondent.	)	EXTENDING DEADLINE FOR
	)	WCA INTER-JURISDICTIONAL
	)	REVIEW FILING
.....)	

Synopsis. The Commission approves and adopts a Settlement filed by all parties to this general rate case that, among other things, establishes the rates customers will pay on a prospective basis beginning June 1, 2012, for electric service provided by PacifiCorp to customers in Washington. The Commission finds reasonable the parties' agreed \$4.5 million (1.5 percent) increase in the Company's electric revenue requirement.

We deny, without prejudice, the request for Commission participation in an April 5, 2012, workshop on the West Control Area Inter-jurisdictional allocation methodology and extend the deadline to January 31, 2013, for submitting a review filing.

SUMMARY

1 PROCEEDING. On July 1, 2011, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-74 with a stated effective date of July 31, 2011. The tariffs were designed to increase rates for electric service in Washington by \$12.9 million or approximately 4.3 percent. The

Company's direct testimony accompanied its filing, as required by law. The Commission suspended operation of the tariffs by Order 01, entered on July 28, 2011, and set this matter for hearing. Under RCW 80.04.130, the suspension date is May 31, 2012.¹

2 The Commission convened a prehearing conference at Olympia, Washington on August 23, 2011, before Administrative Law Judge Patricia Clark. By Order 04, entered in this matter on August 31, 2011, the Commission established a procedural schedule for this proceeding including deadlines for submitting prefiled testimony and exhibits. On January 6, 2012, the Commission's regulatory staff (Commission Staff or Staff),² the Public Counsel Section of the Office of the Attorney General (Public Counsel), the Industrial Customers of Northwest Utilities (ICNU), and The Energy Project timely filed their respective responsive testimony.

3 The Commission provided members of the public an opportunity to submit written comments throughout the proceeding. In addition, the Commission held public comment hearings in Walla Walla, Washington, on January 24, 2012, and in Yakima, Washington, on January 25, 2012. During the public comment hearings, 12 customers in Walla Walla and 15 customers in Yakima presented testimony in opposition to the proposed rate increase. In addition, the Commission received 90 written comments, 85 of which oppose the proposed rate increase.³

¹ The suspension date is the date on which the revised tariff sheets become effective as a matter of law absent affirmative waiver by the company or entry prior to the suspension date of a Commission final order accepting or rejecting the as-filed tariff pages. If the Commission rejects the as-filed tariff pages, it may leave the company's existing rates unchanged or may order a filing by the company to effect new rates that comply with the Commission's determinations in its final order.

² In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

³The public comment exhibit, Exh. No. 3, was filed on March 14, 2012, after the evidentiary hearing in this matter had concluded. Accordingly, the Commission admits Exh. No. 3 with this reference. Any party opposing its admission should file an objection within three business days of the date of this Order.

- 4 On February 3, 2012, the Commission Staff⁴ filed a letter notifying the Commission that the parties to this proceeding had reached a settlement in principle resolving all disputed issues. The parties proposed filing a settlement and testimony in support thereof no later than February 21, 2012. The parties requested that the hearing in this matter be continued to convene on March 7, 2012, and that the remainder of the procedural scheduled be suspended. By Order 06 entered February 6, 2012, the Commission granted the request.
- 5 On February 21, 2012, the parties to this proceeding filed a Settlement Stipulation (Settlement) resolving all disputed issues in this case.⁵ The parties filed joint testimony in support of the Settlement's terms and conditions on the same date.
- 6 On March 7, 2012, the Commission conducted a settlement hearing in Olympia, Washington. Chairman Jeffrey D. Goltz, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones were assisted at the bench by presiding Administrative Law Judge Patricia Clark. During the hearing, the parties presented five witnesses in support of the Settlement. PacifiCorp presented the testimony of R. Bryce Dalley, Director, Regulatory Affairs and Revenue Requirement. The Commission Staff presented the testimony of Michael D. Foisy, Regulatory Analyst. Public Counsel presented the testimony of Lea Daeschel, Regulatory Analyst. ICNU presented the testimony of Donald W. Schoenbeck, consultant. The Energy Project presented the testimony of Charles Eberdt, Director.
- 7 **PARTY REPRESENTATIVES.** Katherine McDowell, McDowell, Rackner & Gibson, PC, Portland, Oregon, represents PacifiCorp. Simon ffitch, Senior Assistant Attorney General, Seattle, Washington, represents Public Counsel. Melinda J. Davison and Irion Sanger, Davison Van Cleve, PC, Portland, Oregon, represent

⁴ The Commission Staff stated that it was authorized to represent that the remainder of the parties concur with the request.

⁵ Attached to the Settlement are three sets of documents: (1) "Appendix A" includes the stipulated revenue requirement adjustments, (2) "Appendix B" is the results of rate spread by class, and (3) "Appendix C" includes the revised tariff sheets. We refer to this body of documents collectively as the "Settlement."

ICNU. Brad M. Purdy, attorney, Boise, Idaho, represents The Energy Project. Greg Trautman, Assistant Attorney General, Olympia, Washington, represents Commission Staff.⁶

- 8 **COMMISSION DETERMINATIONS.** The Commission finds on the basis of the evidence presented that PacifiCorp requires rate relief, and determines that the Settlement results in rates that are fair, just, reasonable and sufficient. The Commission accordingly approves and adopts the Settlement in full resolution of the issues in this proceeding. The Commission denies, without prejudice, the request to participate in an April 5, 2012, workshop on the West Control Area Inter-jurisdictional allocation methodology and extends the deadline for submitting a review filing on that methodology from June 2012 to January 31, 2013.

MEMORANDUM

I. Background and Procedural History

- 9 PacifiCorp filed tariffs on July 1, 2011, designed to increase electric rates by \$12.9 million (4.3 percent on average).⁷ According to the Company, it is currently earning a return on equity (ROE) of 4.6 percent on an unadjusted basis and 7.6 percent on a normalized basis, an ROE less than the 9.8 percent ROE authorized by the Commission in its most recent rate case.⁸ The Company's rate increase is based on an historic test year for the 12 months ending December 31, 2010. The Company's net power costs are based on *pro forma* net power costs for the 12-month period ending May 31, 2013, which is tied to the rate effective period and adjusted to match test year load using the Commission approved production factor. PacifiCorp calculates its results of operations and requested revenue adjustments based on the Western Control

⁶ The International Brotherhood of Electrical Workers, Local 125, was also granted intervention in this case, but is not represented by counsel, did not actively participate in this case, and is not a signatory to the Settlement.

⁷ PacifiCorp's last general rate case was decided by Order 06 entered March 25, 2011, in Docket UE-100749. In that Order, the Commission approved a \$38 million increase in electric rates.

⁸ Kelly, ALK-1T, at 2:12 – 16, *WUTC v. PacifiCorp*, Docket UE-100749, Order 06 (March 25, 2011).

Area (WCA) allocation methodology previously approved by the Commission. Among other elements, the Company's as-filed request includes:

- A revenue requirement increase of approximately \$5 million attributable to increased net power costs.⁹
- A revenue requirement increase of approximately \$2.3 million due to system investments.¹⁰
- A revenue decrease of approximately \$4.7 million caused by the economic downturn, increases in demand-side management, a wetter and cooler irrigation season, and expiration of an ancillary services contract.¹¹

II. Settlement

10 We summarize in this section the parties' Settlement, which is attached to this Order. If any inconsistency between our summary here and the Settlement is perceived, the express terms of the Settlement control.

A. Rate Increase and Rate Effective Date

11 The parties propose that the Commission allow PacifiCorp to implement rates intended to increase its annual revenues from Washington customers by \$4.5 million or 1.5 percent.¹² The parties agree that the effective date of the proposed rates will be no earlier than June 1, 2012.¹³ The effective date is concurrent with the end of the suspension period, May 31, 2012.¹⁴

⁹ Kelly, ALK-1T, at 3:16.

¹⁰ *Id.* at 5:7.

¹¹ *Id.* at 5:15 – 23.

¹² Joint Testimony, Exh. No. JT-1T, at 5:15-18.

¹³ *Id.* at 5:19-20.

¹⁴ *Id.* at 20:11-15.

- 12 Among the agreed-upon specific adjustments to the revenue requirement initially proposed by the Company, the Settlement contains two updates and one adjustment described as a “correction.” The specific adjustments include five general categories the parties describe as: Net Power Cost Expense Legal Expense, Self-Insurance, Administration and General Expense, and Miscellaneous Rate Base.¹⁵ An additional non-specific adjustment (e.g., “black box”) reduces the Company’s proposed revenue requirement by an additional \$1.2 million.¹⁶
- 13 The parties note that although certain adjustments were specifically addressed, they caution that those adjustments are accepted as part of a comprehensive settlement. As such, all adjustments should be “viewed in the broader context of the total settlement stipulation.” The parties have also included an agreement that the “costs and revenues will not be subject to further updates under this stipulation.”¹⁷

B. Renewable Energy Credit (REC) Revenues

- 14 The Settlement does not contain REC revenues.¹⁸ The parties recognize that the Commission is considering the appropriate ratemaking treatment for the Company’s REC revenues for periods after January 1, 2009, including 2010 REC revenues, in Phase II of Docket UE-100749.¹⁹ All parties reserve the right to seek reconsideration, clarification, or judicial review of that issue in that docket.²⁰

¹⁵ *Id.* at 6:9-19.

¹⁶ *Id.* at 7:1-5.

¹⁷ Settlement, Exh. No. 2 ¶ 10; Joint Testimony, Exh. No. JT-1T, at 6:1-8.

¹⁸ *Id.* ¶ 30.

¹⁹ *Id.*

²⁰ *Id.*; Joint Testimony, Exh. No. JT-1T, at 12:15 – 24.

C. Rate Spread and Rate Design

- 15 The parties agree that the rate increase will be spread to all rate schedules on an equal percentage of revenue basis with the exception of street lighting, which will receive no rate increase.²¹ The Settlement's approach is generally consistent with the Company's initial request for rate relief.²² In its initial request, PacifiCorp proposed to spread any revenue requirement change to all rate schedules on an equal percentage basis except street lighting customers, who would have received approximately one-fourth of the proposed overall average percentage increase.²³ The revised tariff sheets necessary to implement this rate change effective June 1, 2012, are attached as Appendix C to the Settlement.
- 16 The parties also agree to accept the Company's initial rate design proposal to apply an equal percentage increase to all billing elements except the residential basic charge.²⁴ In its initial request for rate relief, the Company proposed to increase the residential basic charge from \$6.00 to \$6.25 per month.²⁵ In the Settlement, the parties agree that the residential basic charge should remain at \$6.00 per month.²⁶

²¹ Settlement, Exh. No. 2 ¶ 23; Joint Testimony, Exh. No. JT-1T, at 8:1 – 2.

²² Griffith, Exh. No. WRG-1T, at 2:20 - 22.

²³ *Id.* at 2:20 to 3:5.

²⁴ Settlement, Exh. No. 2 ¶ 24; Joint Testimony, Exh. No. JT-1T, at 8:6 – 9.

²⁵ Griffith, Exh. No. WRG-1T, at 4:6 – 7.

²⁶ Settlement, Exh. No. 2 ¶ 24; Joint Testimony, Exh. No. JT-1T, at 8:9.

D. Low Income Bill Assistance (LIBA)

17 The parties agree to a gradual increase in LIBA over five years (Five-Year Plan)²⁷ and concur that the Plan resolves all issues related to low-income bill assistance during its term.²⁸ The Settlement cites four key elements to the Five-year Plan.²⁹

1. Beginning in 2012, 10 percent of clients will be certified as eligible for a two-year period with the percent certified rising to 25 percent of clients in 2015. Up to 40 percent of participants will be in some phase of two-year certification by 2016.
2. Agency funding for certifying each client will grow to \$65.00, and will increase by \$2.50 annually through 2016 to \$75.00 per certification.
3. Benefits to each participating customer will grow by an average of 10 percent, with additional increases of two times the percentage increase of any future residential general rate increases between 2013 and 2016.
4. The Schedule 91 residential surcharge, which funds the LIBA program, will increase from \$0.55 to \$0.63 per month, and the Company will file for an increase (absent a general rate case filing) annually, around May 1, to reflect the increased funding requirements described above. The Schedule 91 surcharge increases will be applied on an equal percentage basis to all rate schedules. The parties agree to support the Company's annual May 1 Schedule 91 filings and that such filings will be limited in scope to implementing the Five-Year LIBA Plan.³⁰

²⁷ Changes to the Low-Income Bill Assistance Program are described in the testimony of Staff witness Deborah J. Reynolds and The Energy Project witness Charles Eberdt. *See* Reynolds, Exh. No. DJR-1T, at 13-19; Reynolds, Exh. No. DJR-3; Eberdt, Exh. No. CME-1T; and Eberdt, Exh. No. CME-3.

²⁸ Settlement, Exh. No. 2 ¶ 26.

²⁹ *Id.* ¶ 25.

³⁰ Appendix B of the Settlement sets forth the rates associated with the Five-Year Plan.

18 In Schedule 17, the tariff sheet for recipients of the LIBA program, the parties propose an available average discount per customer of \$289 with an available discount of \$373 for customers whose incomes are 0-75 percent of the Federal Poverty Level.³¹ Schedule 17 is revised to state that a maximum 4,720 customers will be *certified* in a given year, but the tariff does not limit the number of customers who will be allowed to *participate* in the program in a given year.

E. Stay-out Provision and Post-settlement Collaborative Process

19 The Company agrees that it will not file a general rate case before January 1, 2013.³² This agreement to not file for rate relief for a set period of time is commonly referred to as a “stay-out provision.” For Staff, Public Counsel, and ICNU, the “stay out” provision is a key reason for these parties supporting the agreed-upon 1.5 percent increase to revenue requirement.³³ Staff believes this provision is in the public interest because it ensures there will be no new general rate increase for a period of at least seven months.³⁴ Public Counsel considers it a key component of the Settlement because it allows for approximately seven months of rate stability for customers, a valuable respite in the current economic climate and a reprieve from continuing rate hikes.³⁵ ICNU deems the Company’s commitment to a “stay out” provision to be of critical importance to its members.³⁶

³¹ See “Low Income Credits” sheet in Appendix B.

³² Settlement, Exh. No. 2 ¶ 27. This provision does not preclude the Company from filing requests for deferred accounting or other accounting petitions before January 1, 2013. If such filings are made by the Company, the other parties are free to take any position they deem appropriate, including opposition to such requests.

³³ Joint Testimony, Exh. No. JT-1T, at 19:15-20:7, 23:15-19.

³⁴ *Id.* at 14:19-22.

³⁵ *Id.* at 20:11-22.

³⁶ *Id.* at 23:17-24:9.

20 In exchange for the Company's agreement to not file a general rate case before January 1, 2013, the other parties agree to engage in a collaborative process to review a number of topics.³⁷ To allow the results to be incorporated into the Company's next general rate case filing, all parties agree to work cooperatively to ensure that this process is substantively complete by November 1, 2012. The process does not require the parties to reach agreement and they acknowledge that there may be issues that ultimately require Commission resolution. They jointly commit that within 30 days of the issuance of a Commission order approving the proposed Settlement, they will establish milestones to meet the November 1, 2012, completion date. Finally, the parties agree that the Company may raise its concerns to the Commission and may request appointment of an administrative law judge to facilitate the collaborative process if the agreed-to milestones are not met or the collaborative process ceases. The collaborative process will:

- Consider methods to streamline the regulatory process.
- Evaluate options for an equitable and balanced power cost adjustment mechanism.
- Evaluate the WCA inter-jurisdictional allocation methodology and consider alternative options.
- Consider alternative test period conventions.
- Consider alternatives to the application of the production factor.
- Consider the content of and approach to attrition studies.
- Evaluate the AURORA power cost dispatch model³⁸ for use in PacifiCorp's future Washington general rate cases or other net power

³⁷ Settlement, Exh. No. 2 ¶ 28.

³⁸ AURORA is a power cost dispatch model used by other utilities in Washington including Puget Sound Energy and Avista Corp.

cost filings where the Company currently relies upon the GRID³⁹ power cost dispatch model.

- If necessary, review the Company's approach to modeling market caps for potential alternate approaches or modeling refinements.

21 Staff believes this provision of the Settlement is in the public interest because the collaboration offers the parties the opportunity to address and resolve several issues, many of which concern power costs.⁴⁰ The parties state that the Company agreed to a seven month rate case stay-out period in order to undertake a collaborative process focusing on important policy issues prior to the Company's next general rate case filing. The Company is hopeful that this process will allow for resolution of some of the topics and mitigate the need for litigation.⁴¹

F. Extension of West Control Area (WCA) Inter-jurisdictional Allocation Methodology Review

22 The collaborative process described in the Settlement is designed to include "evaluation of the West Control Area inter-jurisdictional allocation methodology and to consider alternative options." The parties observe that the Commission required a review of the WCA inter-jurisdictional allocation methodology after five years⁴² and that this review is due in approximately June 2012.⁴³ They jointly request that, to

³⁹ The Company currently uses the Generation And Regulation Initiatives Decision or "GRID" tools power cost dispatch model.

⁴⁰ Joint Testimony, Exh. JT-1T, at 17:14-16.

⁴¹ *Id.* at 25:11-17.

⁴² *WUTC v. PacifiCorp*, Docket UE-060817, Order 08 ¶ 43 (June 21, 2007).

⁴³ Settlement, Exh. No. 2 ¶ 29; *WUTC v. PacifiCorp*, Docket UE-100749, Order 06 (March 25, 2011).

allow for completion of the collaborative process, the Commission explicitly extend the date on which the review filing is due until January 2013.⁴⁴

- 23 Staff supports this request, expecting to take an active role during the stay-out period to work with all parties to review, and if necessary, improve upon the WCA inter-jurisdictional allocation methodology.⁴⁵

G. Executive Compensation Report

- 24 As part of the Settlement, PacifiCorp agrees to work with Public Counsel, and other parties if requested, to develop a report on executive compensation practices and accounting. According to the settlement, the report would include, at a minimum, three major elements:⁴⁶

- A description of current executive compensation segregated by base salary, non-equity incentive pay, and incentive pay components. This part of the report would describe which compensation components are included in rates and which are not.⁴⁷
- A description of how the Company sets levels of executive compensation. The description should include discussion of the basis for selecting “ostensibly comparable utilities” that were surveyed and the results of that survey. The Company is required to state whether executive compensation paid by any Pacific Northwest investor-owned utility, or publicly owned utilities was considered and, if not, why not.⁴⁸

⁴⁴ *Id.*; Joint Testimony, Exh. No. JT-1T, at 26:17-19.

⁴⁵ Joint Testimony, Exh. No. JT-1T, at 17:17-21.

⁴⁶ Settlement, Exh. No. 2 ¶ 32.

⁴⁷ *Id.*

⁴⁸ *Id.*

- A discussion of PacifiCorp’s perspective on the appropriateness of recovery in rates of the existing levels of executive compensation.⁴⁹

25 The Company will provide the parties with the report no later than 30 days prior to filing its next general rate case. The parties will enter into a standard Confidentiality Agreement if the report includes any confidential employee information.⁵⁰

26 Public Counsel believes the report is particularly important because it has concerns with PacifiCorp’s overall level of executive compensation and the allocation of this compensation between utility and non-utility operations.⁵¹ The requirements in the Settlement mirror those ordered by the Commission in another recent proceeding.⁵²

III. Discussion and Decision

A. Criteria for Approval of Settlements

27 WAC 480-07-750(1) states in part: “The commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.”

28 Thus, the Commission considers the individual components of the Settlement under a three-part inquiry. We ask:

- Whether any aspect of the proposal is contrary to law.
- Whether any aspect of the proposal offends public policy.

⁴⁹ *Id.*

⁵⁰ *Id.* ¶33.

⁵¹ Joint Testimony, Exh. No. JT-1T, at 22:14-20.

⁵² *Id.* at 22:16-18; *WUTC v. Avista*, Dockets UE-110876/UG-110877 (consolidated), Order 06, ¶¶ 38-44 (December 16, 2011).

- Whether the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

29 The Commission must determine one of three possible results:

- Approve the proposed settlement without condition.
- Approve the proposed settlement subject to condition(s).
- Reject the proposed settlement.

30 In this proceeding, we have opposition to *any* rate increase expressed in both oral and written comments by a number of PacifiCorp's ratepayers. In summary, the comments emphasize the economic burden to ratepayers of any rate increase and note that PacifiCorp has had almost annual rate increases for the past several years.

31 We are not deaf to these concerns. These are difficult economic times and we recognize that rate increases, even those of a relatively small magnitude, do affect residential, business, and agricultural customers. We are also cognizant that, while this proposed rate increase is comparatively small, PacifiCorp has requested almost annual rate increases for several consecutive years.

32 These challenging times force us to make tough decisions and remind us that we render decisions within the relatively narrow spectrum of following applicable law and policy and making decisions based on the factual record before us. The Commission's mission is essentially one of determining an appropriate balance between the needs of the public to have safe and reliable electric service at reasonable rates and the financial ability of the utility to provide such services. Thus, the results of our orders in proceedings such as this must be to establish rates that are, in the words of our governing statutes, "fair, just, reasonable and sufficient."⁵³ This means rates that are fair to customers and to the Company's shareholders, just in the sense of being based solely on the record developed following principles of due process of law, reasonable in light of the range of possible outcomes supported by the evidence

⁵³ RCW 80.28.010(1) and 80.28.020.

and, sufficient to meet the needs of the Company to cover its expenses and attract necessary capital on reasonable terms. Simply put, our statutory mandate requires us to balance the needs of both ratepayers and utilities.

33 We emphasize that what we have before us is not solely a request by PacifiCorp to increase rates for electric service. Before us is a request for increased rates supported by all parties to this case including Commission Staff which considers both utility and ratepayer interests, Public Counsel which primarily considers the interests of residential and small business ratepayers, ICNU which represents the interests of industrial customers such as, Boise Cascade, and The Energy Project which focuses on the needs of low-income residential ratepayers. These parties come to us in concert requesting that we approve a Settlement that would increase rates for electric service by 1.5 percent.

B. Settlement

34 During the settlement hearing, each party, including the Company, affirmed that our statutory standard requires that we establish rates that are fair, just, reasonable and sufficient, and that adopting the Settlement will satisfy that statutory obligation.⁵⁴ In general, and as discussed below, we find the Settlement terms proposed by the parties to be consistent with law and policy, and to resolve reasonably the issues in this proceeding. The parties made compromises relative to their respective litigation positions to arrive at end results that they assert are fair, just and within an acceptable range of possible outcomes supported by the evidence in the record. The Company affirms that this result is sufficient.⁵⁵ We will now consider the individual elements of the Settlement in light of our statutory mandate and the record in this case.

⁵⁴ TR. 155:10 – 24.

⁵⁵ At the hearing the following exchange took place:

Q (Goltz) I just want to make sure that everybody agrees that the statutory standard that we are charged with applying, that the rates be fair, just, reasonable and sufficient, that if we approve this settlement, we will have satisfied our statutory obligations. Is that your understanding, Mr. Dalley?

A (Dalley) Yes it is.

C. Rate Increase and Rate Effective Date

35 We turn first to the Settlement terms that cover revenue requirement and rate effective date. The parties recommend that the Commission allow PacifiCorp to implement rates designed to increase its annual revenues from Washington customers by \$4.5 million or 1.5 percent.⁵⁶ To derive this level of revenue requirement increase, the parties agree to specific adjustments that reduce costs the Company will recover from ratepayers, such as net power costs, and increase the amount of revenue the Company will receive from other sources, such as ancillary services contracts.⁵⁷ The cost reduction adjustments range in magnitude from approximately \$2.9 million⁵⁸ to \$1,268.⁵⁹ The parties also agree to a non-specific adjustment that reduces the Company's as-filed revenue requirement by an additional \$1.2 million.⁶⁰

36 As the parties requested, we view the revenue requirement adjustments in the context of the total Settlement. This viewpoint recognizes that settlements, by their very nature, represent compromises. Our analysis focuses on whether the adjustments, in totality, will result in fair, just, reasonable and sufficient rates. This analysis is limited by the fact that we have no detail on the non-specific adjustment that results in a \$1.2 million reduction to revenue requirement. However, we gain confidence that the overall revenue requirement is reasonable based on two factors. First, the Company's as-filed case was designed to increase electric rates by \$12.9 million, or 4.3 percent. In comparison, the Settlement will increase electric rates by \$4.5 million, or 1.5 percent. This is a significant reduction from the initial request and one that demonstrates that all parties worked hard to come up with a result that considers both utility and ratepayer interests. Second, earlier in this decision we mentioned the range

⁵⁶ Joint Testimony, Exh. No. JT-1T, at 5:15 – 18.

⁵⁷ The parties define two adjustments as “updates” and one adjustment as a “correction.” Settlement, Exh. No. 2 ¶¶ 11 - 13.

⁵⁸ Settlement, Exh. No. 2 ¶ 18, citing the parties agreed reduction to net power costs.

⁵⁹ *Id.* ¶ 16, citing the parties' agreement to reduce advertising costs.

⁶⁰ Joint Testimony, Exh. No. JT-1T at 7:1 – 5.

of cost reductions agreed upon by the parties. To reiterate, the reductions range from \$2.9 million, as the result of a net power cost update, to \$1,268 in removed advertising costs. While the latter is minimal in context of the overall revenue requirement, it is nonetheless important because it demonstrates the thoroughness with which the parties examined the Company's costs. The range in magnitude of the cost reductions agreed to by the parties helps assure us that costs the Company seeks to recover from Washington rate payers have been closely scrutinized and reflect recent power cost reductions, proper allocation to this jurisdiction, and inclusion of cost saving measures, no matter their magnitude. The Settlement terms reflect this analysis which, after review, we believe achieves a balanced and just result for both the utility and ratepayers.

- 37 The parties propose that new rates take effect on June 1, 2012, or the end of the current suspension period. We believe that this date reflects the efforts of the parties to mitigate the impact of any rate increase. Settlements, such as this one, that include a significant reduction from the revenue requirement initially sought by the utility could have included an earlier rate effective date. When this happens, any savings are at least partially offset by having the higher rates take effect on an earlier date. That did not occur in this case. Particularly in light of the public comments we received opposing any rate increase, this is a reasonable result.

D. REC Revenues

- 38 All parties agree that REC revenues should not be included in the Settlement because the Commission is considering the appropriate ratemaking treatment for those revenues for periods after January 1, 2009, in a separate proceeding.⁶¹ We conclude that it was reasonable for the parties to exclude these revenues and reserve the right to seek reconsideration, clarification, or judicial review after we have rendered our decision in Phase II of last year's general rate case.

⁶¹ *WUTC v. PacifiCorp*, Docket UE-100749, Order 06 (March 25, 2011).

E. Rate Spread and Rate Design

39 According to the Settlement's terms, the rate increase will be spread equally to all rate schedules except street lighting which will receive no rate increase and the residential basic charge will remain at \$6.00 per month. We conclude that this is a reasonable approach to recover the revenue requirement in this proceeding. As we noted in a previous order,⁶² when establishing an appropriate rate spread and rate design we consider not only the cost burden a customer class imposes on a utility but also the principles of rate stability and gradualism. Especially in light of the difficult economic environment in PacifiCorp's service territory in Washington, we should maintain the current rate spread and rate design. This rate configuration imposes an equal burden on all customer classes, except street lighting, and maintains the residential basic charge at its present level. We conclude that even a small deviation from that rate structure in the current economic environment could be adverse to customers and that the principle of rate stability supports maintaining the *status quo*.

F. Low Income Bill Assistance (LIBA)

40 The Settlement provides for significant changes to the LIBA program. Under the proposed Five-Year Plan, eligible clients will gradually transition to a two-year certification process, agency funding for certification will increase, benefits to individual participants will increase, and the residential surcharge funding the LIBA program will increase.

41 In last year's general rate proceeding, we declined to address certain disputed issues such as the allocation of the LIBA surcharge collection, the interval for eligibility certification, and the level of administrative fees because we were "not convinced that these are appropriate matters for resolution by the Commission through the adjudicative process."⁶³ We concluded that these issues would be more effectively resolved through a collaborative process that included PacifiCorp, The Energy

⁶² *Id.* ¶¶ 316 – 17.

⁶³ *Id.* ¶ 356.

Project, Staff, and the agencies that administer the program.⁶⁴ We recognized the importance of these issues and required staff to report to us the results of the collaborative process within six months of the date of the Order, or by September 25, 2011.

42 We commend the parties for resolving these issues through a non-adjudicative process. While many customers are adversely affected by an increase in their electricity rates, we recognize that the customers eligible for the LIBA program are the most dramatically affected by a rate increase and are the least capable of absorbing any rate increase in their monthly income. Accordingly, changes to the LIBA Program that reduce the administrative burden of annual certification and increase benefits should provide welcome respite to participating customers. Conversely, the increase to the Schedule 91 residential surcharge, eight cents per month, imposes a minimal burden on the customers funding the program.

43 The Five-Year Plan also recognizes that the agencies that administer the program are experiencing increasing costs associated with the certification process. Accordingly, the Five-Year Plan gradually increases the agency funding for client certification.

44 In sum, we find that the low income bill assistance provisions of the Settlement are important, and we welcome this result crafted by the parties. They certainly further the public interest, particularly as these difficult economic times continue.

G. Stay-out Provision and Post-settlement Collaborative Process

45 The Company agrees that it will not file a request for general rate relief before January 1, 2013. We construe this component of the Settlement as providing significant benefit to ratepayers. One of the recurring concerns expressed by ratepayers is PacifiCorp's almost annual requests for rate increases in recent years. Under this provision, ratepayers would be assured that the Company would not file a request for rate relief for a minimum of 7 months. While ratepayers and others may well prefer a longer period of time in between requests for rate relief, we recognize that this stay-out provision represents a significant concession on behalf of the

⁶⁴ *Id.* ¶ 357.

Company. For example, in the last settlement proceeding in which we considered a stay-out provision for PacifiCorp, that period was approximately one month.⁶⁵ The stay-out provision in this agreement represents a significant improvement over the previous *de minimis* hiatus.

46 As part of the overall Settlement, the parties agree to engage in a collaborative process on a variety of topics. We understand that many of these issues are very important to the Company. Indeed, counsel for the Company expressed gratitude to all the parties for including

[I]t allows time for a collaborative process to work on the set of very important policy issues; issues which are difficult to move forward while a rate case is pending. On this latter point, we want to specifically express our appreciation to the parties for their willingness to commit resources to the collaborative process. Working together, we hope to make real progress on the policy issues listed in Paragraph 28 of the stipulation, with the goal of breaking the annual rate case cycle and making future rate cases less complex and litigious.⁶⁶

47 We will not, at this time, individually address those topics, save one described below. However, we applaud the parties' efforts to address issues outside of the adjudicatory process. We believe that the collaborative process will afford all affected parties the opportunity to fully explore options unburdened by the procedural constraints of a litigated proceeding and in a more open and non-confrontational environment. These are significant issues, and we look forward to hearing of the results. As noted in the Settlement, if these efforts stall or fail, the parties may request an Administrative Law Judge to facilitate the process, and we would respond favorably to such a request.

⁶⁵ *WUTC v. PacifiCorp*, Docket UE-090205, Order 09 (December 16, 2009). We entered our Final Order on December 16, 2009, and the stay-out provision provided that the Company could not file for rate relief until after January 11, 2010. That date coincided with the expiration of the statutory suspension period in that case.

⁶⁶ TR. 67.

- 48 We address one topic scheduled for the collaborative process, the WCA inter-jurisdictional allocation review, because the parties have an outstanding request for Commission participation at a workshop scheduled for April 5, 2012. Specifically, the parties request Commission guidance on the intent, scope, and content of the WCA review and report.
- 49 In Docket UE-061546, we approved PacifiCorp's request to adopt the WCA inter-jurisdictional allocation methodology, with two revisions proposed by Commission Staff.⁶⁷ We also approved PacifiCorp's recommended five-year trial period.⁶⁸ The five-year review that is the subject of the workshop scheduled for April 5, 2012, is the review that was contemplated at the end of the trial period. Accordingly, we believe that PacifiCorp and Staff's request for Commission participation is premature. At this juncture, we are not in a position to offer guidance. What we foresee the parties exploring at this time is an evaluation of the methodology proposed by PacifiCorp five years ago including an evaluation of the pros and cons on the continued use, modification, or substitution of that methodology in future proceedings. The best guidance for that effort is probably the parties' review of the record in the docket which initiated the use of this methodology and its five-year trial period. While we will not participate in the upcoming April 5, 2012, workshop, we remain open to future requests for guidance should the need arise and our guidance may take some form other than participation in a workshop.

H. Extension of WCA Inter-jurisdictional Allocation Methodology Review

- 50 The parties request that the deadline for concluding the five-year review of the WCA inter-jurisdictional methodology be extended from June 2012 to January 2013. This request is reasonable and we extend the deadline for submitting the review filing until January 31, 2013. We recognize that the parties have undertaken an ambitious list of topics for the collaborative process and extending the deadline for this filing will allow them to take full advantage of that process.

⁶⁷ *WUTC v. PacifiCorp*, Docket UE-061546/*Petition of PacifiCorp for an Accounting Order*, Docket UE060817 (*consolidated*) Order 08 ¶ 43 (June 21, 2007).

⁶⁸ *Id.*

I. Executive Compensation Report

51 PacifiCorp agrees to work with Public Counsel, and other parties if requested, to develop a report on executive compensation practices and accounting. The report will be provided to the parties no later than 30 days prior to the Company filing its next request for general rate relief. Two topics, (1) the appropriate level of executive compensation, and (2) the allocation of the costs associated with that compensation between ratepayers and shareholders, have arisen in recent rate cases involving all major electric utilities in Washington. We conclude that gathering more information on this subject in advance of an adjudicatory proceeding would facilitate its review and would enhance the record in the next rate case.

J. Conclusion

52 In summary, all parties to this proceeding support the Settlement because it produces rates that are just, fair, reasonable, and sufficient. We conclude that the Settlement is lawful, consistent with public policy, and supported by the evidence in the record. Considering all the information available in the record, we find and conclude that our approval and adoption of the Settlement is in the public interest.

53 We deny, without prejudice, the request for Commission participation at the April 5, 2012, workshop regarding the WCA Inter-jurisdictional allocation methodology. We grant the parties' request to extend the deadline for submitting a review filing. That deadline is extended from June 2012 to January 31, 2013.

FINDINGS OF FACT

54 Having discussed above in detail the evidence received in this proceeding concerning all material matters the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

- 55 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electrical companies.
- 56 (2) PacifiCorp is a “public service company” and an “electrical company” as those terms are defined in RCW 80.04.010 and as those terms otherwise are used in Title 80 RCW. PacifiCorp is engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.
- 57 (3) The parties propose to resolve the issues in this proceeding via the Commission’s approval and adoption of their Settlement filed on February 21, 2012, which is attached to, and made a part of, this Order.
- 58 (4) The existing rates for electric service provided in Washington by PacifiCorp are insufficient to yield reasonable compensation for the services rendered. PacifiCorp requires prospective relief with respect to the rates it charges for electric service provided in Washington.
- 59 (5) The rates, terms, and conditions of service that result from adoption of the Settlement that is attached to this Order results in rates for PacifiCorp that are fair, just, reasonable, and sufficient.
- 60 (6) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation are neither unduly preferential nor discriminatory.
- 61 (7) The Commission’s approval and adoption of the Settlement Stipulation attached to, and discussed in, the body of this Order are in the public interest.

CONCLUSIONS OF LAW

62 Having discussed above all matters material to this decision, and having stated its
findings, the Commission now makes the following summary conclusions of law,
63 incorporating by reference pertinent portions of the preceding detailed conclusions:

- 63 (1) The Washington Utilities and Transportation Commission has jurisdiction over
the subject matter of, and parties to, these proceedings. Title 80 RCW.
- 64 (2) The rates proposed by tariff revisions filed by PacifiCorp on July 1, 2011, and
suspended by prior Commission order, were not shown to be fair, just or
reasonable and should be rejected. RCW 80.28.010.
- 65 (3) PacifiCorp's existing rates for electric service provided in Washington are
insufficient to yield reasonable compensation for the service rendered. RCW
80.28.010; RCW 80.28.020.
- 66 (4) PacifiCorp requires relief with respect to the rates it charges for electric
service provided in Washington. RCW 80.01.040; RCW 80.28.060.
- 67 (5) The Commission determines that the rates resulting from adoption of the
Settlement filed by all parties to this proceeding are fair, just, reasonable, and
sufficient rates that are to be observed and in force under PacifiCorp's tariffs
prospectively from an effective date of June 1, 2012, for electric service the
Company provides to customers in Washington. RCW 80.28.020.
- 68 (6) PacifiCorp should be authorized to recover its revenue deficiency of \$4.5
million for electric service, consistent with the terms of this Order and
Settlement.
- 69 (7) The Settlement attached to this Order as an Appendix and incorporated by
prior reference, should be approved and adopted.

- 70 (8) The rates, terms, and conditions of service that will result from this Order are neither unduly preferential nor discriminatory. RCW 80.28.020.
- 71 (9) The rates, terms, and conditions of service that will result from this Order are fair, just, reasonable, and sufficient. RCW 80.28.010; RCW 80.28.020.
- 72 (10) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, the revised tariff sheets attached to the Settlement.
- 73 (11) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS THAT:

- 74 (1) The proposed tariff revisions PacifiCorp filed on July 1, 2011, which were suspended by prior Commission order, are rejected.
- 75 (2) The Settlement attached and incorporated into this Order by prior reference, is approved and adopted.
- 76 (3) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, the revised tariff sheets attached to the Settlement.
- 77 (4) The Commission retains jurisdiction to effectuate the terms of this Order.
- 78 (5) The request for Commission participation at an April 5, 2012, workshop to address the review of the West Control Area Inter-jurisdictional allocation methodology is denied, without prejudice.

- 79 (6) The deadline for submitting a review filing on the West Control Area Inter-jurisdictional allocation methodology is extended to January 31, 2013.

Dated at Olympia, Washington, and effective March 30, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.

Docket UE-111190 Settlement