BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION Complainant, v. PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY Respondent.	DOCKET NO. UT-032065

BRIEF OF COMMISSION STAFF

October 8, 2004

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I. INTRODUCTION

1 This general rate case presents the first thorough and comprehensive study of the financial condition of PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or "the Company") in the state of Washington since the Company's last general rate case over 17 years ago. After performing an exhaustive review of PacifiCorp's filed evidence, accounts, books, and records the Commission Staff (Staff) was able to reach a settlement with the Company to produce fair, just, reasonable, and sufficient rates. The Natural Resources Defense Council (NRDC) joined Staff and the Company in the Settlement agreement. The Public Counsel section of the Attorney General's Office (Public Counsel) and the Industrial Customers of Northwest Utilities (ICNU) oppose the Settlement.

2 While the Settlement does not finally resolve the important issue of PacifiCorp's inter-jurisdictional cost allocation methodology, it puts that issue on pace for a principled resolution that is fair to Washington ratepayers. The Settlement provides additional time for the parties to resolve inter-jurisdictional cost allocation for the long term. The inter-jurisdictional cost allocation methodology issue has gained significant momentum in other states since this case was filed and the parties will be able to capitalize on that momentum. Staff and the Company anticipate that the issue can be resolved within a matter of months.

3 As argued below, the Settlement is a good compromise of the disputed issues in this docket. It produces rates that are fair, just, reasonable, and sufficient and is a positive step toward resolving the inter-jurisdictional cost allocation issue. The Commission should approve the Settlement.

II. BACKGROUND

A. Statutes, Rules, and Regulatory Principles Governing Rate Cases.

1. In Determining Fair, Just, Reasonable, and Sufficient Rates, the Commission Must Balance the Interests of Ratepayers and the Company.

4 The Washington Utilities and Transportation Commission (Commission) is authorized to "regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices" of electrical companies, such as PacifiCorp.[1]

5 Electric rates must be "just, fair, reasonable, and sufficient."[2] The Commission shall not set rates that are unfair, discriminatory, unduly prejudicial, or insufficient to yield reasonable compensation for the service rendered.[3] The Washington Supreme Court has expressed the Commission's regulatory responsibility as:

> [T]he WUTC must in each rate case endeavor not only to assure fair process and service to customers, but also to assure that regulated utilities

[1] RCW 80.01.040(3).

[2] RCW 80.28.010.

[3] RCW 80.28.020.

> earn enough to remain in business—each of which function is as important in the eyes of the law as the other.[4]

6 The balance of ratepayer and regulated company interests is axiomatic. This Commission has said:

> We regulate [utilities] to ensure that rates charged to customers are fair, just, and reasonable, and that those rates are sufficient for the utility to maintain financial viability and the capability to fulfill its obligation. The public interest is served when the interests of the utility and the interests of the utility's customers are kept in careful balance. . . .[5]

2. Ratemaking Principles.

7 The Commission evaluates whether a proposed rate increase is fair, just, reasonable, and sufficient by: (1) determining the utility's Washington intrastate adjusted results of operations during the test year; (2) establishing the fair value of the utility's property used and useful to providing service in the state of Washington (rate base); (3) determining the proper rate of return for the utility on that property; and (4) ascertaining the appropriate spread of rates charged various customers to recover that return.[6]

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[4] *People's Organization for Washington Energy Resources (POWER) v. Utilities & Transp. Comm'n*, 104 Wn.2d 798, 808, 711 P.2d 319 (1985) (*citing State ex rel. Puget Sound Power & Light Co. v. Department of Pub. Works*, 179 Wash. 461, 466, 38 P.2d 350 (1935)).

[5] *In re the Matter of Avista Corp., d/b/a Avista Utilities Request Regarding the Recovery of Power Costs Through the Deferral Mechanism*, Docket No. UE-010395, Sixth Supp. Order Rejecting Tariff Filing; Granting Temporary Rate Relief, Subject to Refund; and Authorizing and Requiring Compliance Filing, ¶ 7 (Sept. 24, 2001).

[6] *See WUTC v. Avista Corp.*, Docket Nos. UE-991606 & UG-991607, Third. Supp. Order, ¶ 14 (Sept. 29, 2000).

8 The Commission expects parties to a rate case to present evidence from which it can determine the following:

(1) An appropriate 12-month test period, for which income statements and balance sheets are available. This test period is used for investigation of the utility's operations;

(2) The utility's results of operations for the appropriate test period, adjusted for unusual events during the test period, and for known and measurable events beyond the test period;

(3) The appropriate rate base, as derived from the balance sheets of the test period. The rate base represents the net book value of assets provided by investors' funds that are used and useful in providing utility service to the public;

(4) An appropriate rate of return on the rate base established by the Commission;

(5) Any existing revenue excess or deficiency; and

(6) The allocation of the rate increase or decrease, if any, fairly and equitably among the utility's ratepayers.[7]

3. Filing Requirements for General Rate Cases.

9 In addition to these principles, the Commission has enacted rules setting forth the filing requirements for general rate cases. The Commission requires a company seeking a general rate increase to file detailed information regarding the development of its requested rate of return; its restating actual and pro forma adjustments; its revenue sources and changes thereto; an explanation for any failure to achieve its authorized rate of return and what the company is doing to improve its earnings; the

[7] *Id.*, ¶ 15.

company's actual rate base and results of operation; affiliate and subsidiary transaction reports as necessary.[8] Companies also must submit the documentation required by WAC 490-07-510(4). These requirements help ensure that the Commission has the evidence it needs in order to evaluate the requested rate increase under the principles set forth above.

4. Settlement Principles.

10 The Commission, like other state agencies, encourages parties to resolve disputed issues, subject to agency approval.[9] Specifically, the Commission "supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest, and subject to approval by commission order."[10] The Commission anticipates that some settlements will be "full" settlements, which reflect an agreement by all parties to resolve all of the issues in a case, while other settlements will be "multi-party" settlements that reflect the agreement of some, but not all, parties.[11]

11 When considering a settlement in a general rate case, the ultimate issue for the Commission is "whether the Settlement Stipulation is appropriate and consistent with the public interest, and whether the rates proposed in the Settlement Stipulation are

[8] WAC 480-07-510(3).

[9] RCW 34.05.060.

[10] WAC 480-07-700.

[11] WAC 480-07-730(1), (3).

fair, just, reasonable, and sufficient pursuant to RCW 80.28.020."[12] To assist in deciding whether a settlement is in the public interest, the Commission requires the settling parties to file evidence supporting the settlement.[13]

B. The Commission's Order Amending PacifiCorp's Rate Plan.

12 On November 24, 1999, PacifiCorp filed a general rate case with the Commission, seeking to generate an additional $24.8 million annually, which the Commission suspended and set for hearing.[14] Before litigation concluded in that case, the parties submitted a full settlement for the Commission's approval. Among other elements, the settlement in that docket deferred the issue of whether PacifiCorp's acquisition of some assets was prudent, and established a five-year "rate plan period" during which the Company would not request a general rate increase.[15] The Commission approved the settlement.

13 On April 5, 2002, PacifiCorp filed a petition for an accounting order that would authorize it to establish a deferred cost account to track excess power costs from June 1,

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[12] *WUTC v. Washington Nat. Gas Co.*, Docket No. UG-031884, Order No. 4, Order Adopting Settlement Stipulation as Amended, ¶ 11 (June 23, 2004) ("NWG Order").

[13] WAC 480-07-730(1)-(3).

[14] *WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket No. UE-991832, Third Supp. Order Approving and Adopting Settlement Agreements; Rejecting Tariff Sheets; Authorizing and Requiring Compliance Filing, ¶ 1 (Aug. 9, 2000). The procedural history of that docket is set forth in the order.

[15] *WUTC v. PacifiCorp*, Docket No. UE-991832, Third Supp. Order, ¶¶ 28, 51-53. The settlement provided for a rate increase of approximately seven percent, which was implemented over a three-year period. *Id.*, ¶ 33. PacifiCorp could request general rate relief if (1) interim rate relief was warranted under the Commission's standards or (2) the occurrence industry or corporate restructuring whereby PacifiCorp would cease operating as a vertically integrated utility with bundled rates. *Id.*, ¶ 31.

2002 through May 31, 2003, or earlier if the Commission were to approve a power cost adjustment mechanism or other limited rate relief for the Company.[16] The Company cited the extraordinary costs associated with the "Western Energy Crisis" as the reason for the requested accounting order.[17]

14 The Commission denied PacifiCorp's request to defer power costs, in part because the inter-jurisdictional cost allocation issue had not been resolved and the Commission could not determine whether or to what degree the power costs should be allocated to Washington ratepayers. However, recognizing that PacifiCorp's rates through the end of the rate period may not remain fair, just, reasonable, and sufficient, the Commission held it was no longer in the public interest to preclude PacifiCorp from requesting rate relief prior to the end of the rate plan.[18] Thus, the Commission authorized PacifiCorp to file a general rate case.[19]

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[16] *In re the Petition of PacifiCorp d/b/a Pacific Power & Light Co./WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket Nos. UE-020417 & 991832, Sixth Supp. Order Denying Petition for Accounting Order; Rejecting Tariff Filing; Authorizing Subsequent Filing/Eighth Supp. Order: Amending Third Supp. Order, ¶ 1 (July 15, 2003) ("Order Amending Rate Plan").

[17] *Id.*, ¶¶ 16-18.

[18] *Id.*, ¶¶ 38-43, 49.

[19] Public Counsel filed a petition for judicial review challenging the Commission's authority to permit PacifiCorp to file a rate case before the end of the rate period, which was denied by the Thurston County Superior Court on May 27, 2004. *Office of the Attorney General, Public Counsel v. WUTC*, Thurston County Superior Court No. 03-2-01614-1. Public Counsel and ICNU have appealed that decision to the Court of Appeals (No. 31826-1-II), which is pending argument.

C. Procedural History.

15 On December 16, 2003, PacifiCorp filed tariff revisions to increase the rates and charges for its services. PacifiCorp's initial filing proposed to increase the Company's annual revenues from its Washington operations by $26.7 million, which would result in a proposed uniform rate increase of 13.5 percent. The Company based its revenue requirement increase on an inter-jurisdictional cost allocation methodology called "Protocol." The Company filed testimony and exhibits from 16 witnesses in support of its requested rate increase.[20]

16 The Commission suspended that filing on January 14, 2004, and set the matter for hearing. The Commission convened a prehearing conference on January 26, 2004, at which Staff and Public Counsel appeared, and a number of parties intervened.[21] The Commission established a procedural schedule for this docket.

17 Following extensive discovery, Staff, Public Counsel, and intervenors filed their testimony and exhibits in response to the Company's initial filing on July 2, 2004. With respect to PacifiCorp's revenue requirement, Staff recommended a revenue requirement

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[20] *See* December 16, 2003 letter to Carole Washburn from James M. Van Nostrand and Stephen C. Hall, which accompanied PacifiCorp's initial filing.

[21] Intervenors are ICNU, NRDC, the Citizens' Utility Alliance of Washington, the Energy Project, the Opportunity Council, the Northwest Community Action Center, and the Industrialization Center of Washington. *WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket No. UE-032065, Order No. 2, ¶ 2 (Jan. 28, 2004).

increase for the Company of $7.1 million.[22] Staff based its proposed increase on a control area-focused inter-jurisdictional cost allocation methodology, which was based on the Hybrid cost model.[23] Public Counsel recommended a revenue requirement reduction of $34 million, based on a control area cost allocation methodology that featured a situs allocation of hydro system costs and benefits.[24] ICNU proposed several adjustments to PacifiCorp's direct case, most significantly adjustments to the Company's net power costs, which would reduce PacifiCorp's requested revenue requirement.[25] ICNU proposed its adjustments based on the Protocol methodology.

18 PacifiCorp filed its rebuttal testimony on July 28, 2004. In that testimony, the Company reduced its requested rate relief to $25.7 million. The Company also filed a new proposal for allocating costs among its jurisdictions, which it calls "Revised Protocol."[26] However, the Company continued to advocate for the Protocol it filed in its direct case as the appropriate basis for inter-jurisdictional cost allocation in this docket.[27]

19 On August 19, 2004, Staff moved to strike the Revised Protocol. Staff argued that allowing the Revised Protocol in the record would prejudice Staff and other parties

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[22] Exhibit 561T, at 15, l.8 (Braden, Direct).

[23] *Id.* at 11, ll. 6-88.

[24] Exhibit 501T, at 1, ll. 16-26 (Lazar, Direct).

[25] *See* Exhibit 401T, at 7 (Falkenberg, Direct).

[26] *See* Exhibit 75 (ALK-5).

[27] Exhibit 32T, at 7, ll. 3-9 (Furman, Rebuttal).

because they would have insufficient time to review it and provide meaningful analysis.[28]

20 On August 18, 2004, Staff and the Company met to discuss the possibility of reaching agreement on certain issues in this docket. Over the course of a week, the settling parties were able to reach agreement on most issues. Staff and PacifiCorp were unable to agree on the return on equity, capital structure, or whether certain resources should be allocated to Washington. The settling parties further agreed to defer the issue of a long-term inter-jurisdictional cost allocation methodology.[29]

21 On August 24, 2004, Staff and the Company filed a settlement agreement with the Commission. NRDC subsequently joined the Settlement and on August 27, 2004 the final Settlement was filed with the Commission.[30]

III. ARGUMENT

A. The Settlement Is In the Public Interest.

22 As noted above, the Commission will evaluate requests for general rate increases based on its evaluation of the evidence. The Settlement Agreement between Staff, PacifiCorp, and NRDC is supported by the kind and sufficiency of evidence the Commission requires in rate cases.

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[28] Commission Staff's Motion to Strike, ¶ 18 (Aug. 19, 2004).

[29] Exhibit 1, at 3, l. 14 through 4, l. 22 (Panel).

[30] Exhibit 3 (Settlement).

1. The Settlement Is Supported By Sufficient Evidence for the Commission to Grant a Rate Increase.

a. The Settlement Establishes a Test Period.

23 The Settlement establishes a test period ending March 31, 2003.[31] All parties presented their evidence based on this test year.[32]

b. The Settlement Includes PacifiCorp's Results of Operations for the Test Period.

24 In their direct cases, Staff and PacifiCorp set forth their results of operations for the Company. Staff (and Public Counsel and ICNU) proposed several adjustments to the Company's results of operations. Those adjustments are reflected in the testimony filed on behalf of the parties. The record in this docket contains ample evidence regarding PacifiCorp's results of operations.[33]

25 The Settlement sets forth stipulated results of operations.[34] This stipulation is a compromise between the positions taken by Staff and the Company in their direct and rebuttal evidence.[35] In their direct cases, Public Counsel and ICNU advocated for

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[31] Exhibit 3, at 1 (Panel-3; Settlement Agreement).

[32] *See* Exhibit 242, at 1 (TES-2); Exhibit 201T, at 1, ll. 21-23 (Westin, Direct); Exhibit 461T, at 2, ll.13-14 (Schoenbeck, Direct); Exhibit 522 (JRD-2).

[33] *See, e.g.*, Exhibits 203 (JTW-3), 206 (JTW-5); 642 (TES-2).

[34] Exhibit 4 (Panel-4).

[35] *Compare* Exhibit 4 (Panel-4) *with* Exhibits 206 (JTW-5) and 642 (TES-2). Staff and PacifiCorp arrived at their respective results of operations in their direct and rebuttal cases by using different inter-jurisdictional cost allocation methodologies. The Settlement uses the Protocol as a common point for adjustments. The settlement does not adopt the Protocol. Exhibit 1, at 5, ll. 5-10 (Panel).

adjustments to the Company's revenue requirement and power costs, but neither proposed a statement of PacifiCorp's results of operations.

26 The Settlement includes a number of adjustments to PacifiCorp's revenue requirement that reflect the settling parties' compromise. The Settlement includes some of the adjustments that were advocated by Staff, Public Counsel, or ICNU in their direct testimony. The specific adjustments are enumerated in the settlement documentation, and include adjustments for temperature normalization, IRS settlement, and working capital.[36]

27 In addition to the enumerated adjustments, the Settlement includes a $600,000 reduction to PacifiCorp's revenue requirement to account for Public Counsel or ICNU adjustments that the settling parties believe may have merit.[37] During the hearing, Roger Braden, Assistant Director – Energy, a member of the Settlement panel, explained the reason Staff agreed to the $600,000 adjustment:

> [T]here was the sense on the part of the Staff that some of the issues ICNU had raised may have merit. We were not to the point of being able to dissect that, and determine which ones had how much merit. But we felt that some recognition of points we felt were potentially valid should be given in the settlement.[38]

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[36] *See* Exhibit 3, Attachment A (Panel-3); *see also* Exhibit 1, at 7-9 (Panel) (explaining the basis for agreement regarding the enumerated adjustments).

[37] *See* Exhibit 3, Attachment A (Panel-3); *see also* Exhibit 1, at 11, ll. 1-8 (Panel).

[38] Tr. at 479, l. 22 through 480, l. 3 (Braden).

28 The Settlement also includes adjustments to PacifiCorp's power costs. The total adjustment, on a Washington basis, is $1.93 million.[39] The adjustments to power costs include removing the Aquila hydro hedge, the J. Aron temperature hedge, the Morgan Stanley temperature hedge, and a hydro normalization adjustment.[40] The settling parties explain their reasons for these adjustments in their panel testimony.[41] The settling parties also acknowledge that PacifiCorp had accepted in its rebuttal case approximately $7.5 million in power cost adjustments advocated by ICNU.[42]

29 The results of operations in the Settlement provide for a $15.5 million revenue requirement for PacifiCorp. As explained more fully below, this revenue requirement will produce rates that are fair, just, reasonable, and sufficient.

30 The Commission has before it substantial record evidence regarding PacifiCorp's results of operations. It has the Company's results of operations, Staff's results of operations, and those parties' compromise results of operations. The parties' compromise is informed by each party's litigation position and the litigation positions of the other parties. Staff recommends that the Commission accept the results of operations set forth in the Settlement.

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[39] Exhibit 3, Attachment B (Panel-3).

[40] *Id*.

[41] *See* Exhibit 1, at 13, l. 1 through 14, l. 7. (Panel).

[42] *Id*. at 14, l. 13.

c. The Settlement Establishes a Reasonable Rate Base.

31 As with the results of operations, the Commission has sufficient evidence to determine the rate base for purposes of granting the rate increase proposed by the Settlement.[43] The Settlement sets forth the rate base.[44]

32 In its direct case, Staff used a control area-based allocation methodology, which did not include resources used to serve the Company's Eastern Control Area.[45] Using its control area-based methodology, Staff arrived at a rate base of $548,512,000.[46]

33 In response to Bench Request No. 1, Staff made its adjustments on the basis of Protocol. While Staff's adjustments in its direct case did not translate perfectly to Protocol because it did not evaluate the entire PacifiCorp system, Staff arrived at an adjusted rate base of $557,973,373.[47]

34 In the Settlement, Staff and PacifiCorp agreed to an adjusted rate base of $582,941,000. This rate base includes some resources that Staff did not include in its

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[43] *See* Exhibits 206 (JTW-5); 642 (TES-2).

[44] Exhibit 4, at 1 (Panel-4).

[45] *See* Exhibits 641T, at 5, l. 24 through 7, l. 14 (Schooley, Direct); 643 (TES-3).

[46] Exhibit 643 (TES-3).

[47] Exhibit 13 (Bench Request No. 1).

direct case, because those resources were not part of Staff's control area-based methodology.[48]

35 The Commission has sufficient evidence to approve the rate base contained in the Settlement. Use of that rate base results in rates that are fair, just, reasonable, and sufficient.

d. The Settlement Sets an Appropriate Rate of Return on the Rate Base.

36 The Settlement provides for a rate of return of 8.39 percent. In it is direct case, the Company advocated an overall rate of return of 8.743 percent.[49] PacifiCorp requested that rates be set using a return on equity of 11.25 percent,[50] and the Company's actual capital structure of 51.51 percent debt, 1.14 percent preferred stock, and 47.08 percent common equity.[51] Staff recommended an overall rate of return of 7.72 percent, a return on equity of 9.375 percent, and a capital structure comprised of 52.94 percent long-term debt, 1.54 percent short-term debt, 1.42 percent preferred stock, and 44.09 percent common equity.[52]

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[48] Exhibit 3, at 6 (Settlement Agreement).

[49] Exhibit 31, at 2, l. 9 (Furman, Direct).

[50] Exhibit 41, at 4, ll. 5-10 (Hadaway, Direct).

[51] Exhibit 31, at 2, ll. 2-14 (Furman, Direct).

[52] Exhibit 667 (SGH-17).

37 Staff and PacifiCorp were unable to agree on a return on equity or on capital structure.[53] However, the 8.39 percent overall rate of return is reasonable and in step with the rate of return this Commission has authorized for other electric utilities,[54] and the overall rate of return other states have authorized for PacifiCorp.[55]

38 Public Counsel and ICNU oppose the Settlement, in part because it does not state a particular return on equity or capital structure for PacifiCorp.[56] However, neither party offered evidence that the 8.39 percent overall rate of return in the Settlement is unreasonable.

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[53] Exhibit 1, at 10, ll. 1-15 (Panel).

[54] Presently, Puget Sound Energy's authorized overall rate of return is 8.76 percent. *See WUTC v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571, Thirteenth Supp. Order: Rejecting Tariff Filing; Approving and Adopting Settlement Stipulation; Authorizing and Requiring Compliance Filing, ¶ 19 (Aug. 28, 2002).

[55] The Wyoming Public Service Commission authorized an overall rate of return for PacifiCorp of 8.415 percent, which was derived from a return on equity of 10.75 percent, with a capital structure of 48.66 percent debt, 6.39 percent preferred stock, and 44.95 percent common equity. *In re PacifiCorp*, Docket No. 20000 ER-03-198, 232 P.U.R.4th 295, 308 (Wyo. P.U.C. Feb. 28, 2004). The Utah Public Service Commission accepted a stipulation that provided for an overall rate of return for PacifiCorp of 8.427 percent, based on an agreed-upon return on equity of 10.7 percent, and a capital structure of 51.55 percent long-term debt, 1.41 percent preferred stock, and 47.04 percent common equity. *In re PacifiCorp*, Docket No. 03-2035-02, 230 P.U.R.4th 193, 196-97 (Utah P.U.C. Jan. 30, 2004). The Oregon Public Utilities Commission authorized an overall rate of return for PacifiCorp of 8.62 percent, with a return on common equity of 10.75 percent using a capital structure of 8.7 percent preferred stock, 45 percent long-term debt, and 46.3 percent common equity. *In re PacifiCorp*, UE 116, 212 P.U.R.4th 379, 402-03 (Oregon P.U.C. Sept. 7, 2001).

[56] *See* Tr. at 731, ll. 6-9 (Dittmer); 121, ll. 10-11 (Schoenbeck).

39 One of ICNU's objections to the Settlement is that it produces—in ICNU's view—too high of a return on equity.[57] Although the Settlement does not contain or imply a return on equity or capital structure because the settling parties could not agree on those elements, ICNU attempted to calculate a return on equity by overlaying the agreed-upon overall rate of return on Staff's and PacifiCorp's filed testimony (ICNU did not perform a cost of capital analysis in this docket).[58] At bottom, the point of ICNU's criticism is that the Settlement produces a different result than what Staff had advocated in its direct case.[59]

40 Staff agrees that the Settlement produces a higher overall rate of return for PacifiCorp than what it had advocated in its direct case. The Settlement is a compromise of a highly contested issue and results in a reasonable overall rate of return.

41 The fact that the Settlement does not expressly set forth a return on equity component or capital structure does not warrant rejection of the Settlement. Recently, this Commission has approved a settlement that did not include such components, or an overall rate of return.[60] Staff is unaware of any legal requirement that the

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[57] *Tr.* at 129, l. 8 through 130, l. 16.

[58] *Id.*; Exhibit 427.

[59] Tr. at 130, ll. 4-16 (Schoenbeck).

[60] NWG Order, Appendix A.

Commission must establish a specific return on equity or capital structure when setting rates.

e. The Results of Operations in the Settlement Results in a Revenue Deficiency of $15.5 million, which the Settling Parties Agree the Company Should Recover in Rates.

42 The Settlement recommends a revenue requirement of $15.5 million for PacifiCorp.[61] In its rebuttal case, the Company had requested a revenue requirement increase of $25.7 million.[62] Staff had recommended a revenue requirement increase of $7.1 million. However, between the time Staff had received PacifiCorp's rebuttal testimony and the meeting with the Company during which Staff and PacifiCorp agreed on the outline of a settlement, Staff had continued to check the accuracy of assumptions and adjustments that were reflected in the testimony. As a result of this internal process, Staff likely would have supplemented its testimony to recommend a revenue requirement in the range of $14 million using its control area methodology, a 9.375 return on equity, and a capital structure consisting of 44 percent equity. Any change to the return on equity or increase in the equity component of the capital structure would have further increased the revenue requirement.[63]

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[61] Exhibit 3, at 5 (Settlement).

[62] Exhibit 1, at 7, ll. 11-12 (Panel).

[63] Tr. at 469, l. 9 through 470, l. 3 (Braden).

43 Public Counsel recommended a $34 million reduction to the Company's revenue requirement, based on its allocation methodology that assigned the hydro system costs and benefits to the jurisdiction where the resources are located.[64] ICNU recommended no increase to PacifiCorp's revenue requirement.[65] Notwithstanding Public Counsel's and ICNU's positions, the weight of evidence in this docket supports an increase in PacifiCorp's revenue requirement. Staff recommends that the Commission approve the Settlement. The $15.5 million revenue requirement increase is a good compromise, and results in rates that are fair, just, reasonable, and sufficient.

f. The Settlement Fairly and Equitably Allocates the Rate Increase Among PacifiCorp's Customers.

44 The Settlement adopts the rate spread/rate design proposal of Staff, Public Counsel, and ICNU.[66] The rate impacts on PacifiCorp's customer classes are set forth in Exhibit 7 to the Settlement.[67]

2. Other Features of the Settlement Are in the Public Interest.

45 In addition to its provisions satisfying the Commission's requirements for the resolution of ratemaking issues, the other features of the Settlement also are in the

[64] Exhibit 501T, at 1, ll. 16-26 (Lazar, Direct).

[65] Tr. at 127, ll. 5-10 (Schoenbeck).

[66] Exhibit 1, at 17 (Panel); *see also* Exhibit 621T, at 2, ll. 6-16 (Joint).

[67] Exhibit 7 (Panel-7).

public interest. The Settlement reflects a reasonable compromise on issues such as prudence of resources, and regulatory assets and deferred debits.

a. The Settlement Properly Addresses Resource Acquisitions.

46 As argued below, the Settlement strikes a reasonable compromise regarding PacifiCorp's acquisition of certain resources. The settling parties addressed those resources in the Settlement as a result of their agreement to cast the Company's results of operations based on Protocol, rather than Staff's recommended control area-based cost allocation methodology for purposes of the settlement.

47 The Settlement provides that the rates produced by the Settlement will include the resources PacifiCorp acquired since its last litigated general rate case in Washington, as well as the West Valley and Gadsby resources.[68] That inclusion is for purposes of this proceeding only.[69]

48 The Settlement reflects Staff's and PacifiCorp's agreement that the Company prudently acquired the Hermiston and James River resources, which are located in the Western Control Area.[70] However, the Settlement treats the other resources differently.[71]

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[68] Exhibit 1, at 14, l. 18 through 15, l. 3 (Panel).

[69] *Id*. at 14, ll. 18-19.

[70] *Id*. at 15, ll. 4-9.

[71] *Id*. at ll. 9-10.

49 Staff built its direct case on a control area-based cost allocation approach. This approach eliminated the need for Staff to evaluate whether the Company's acquisition of Eastern Control Area resources was prudent. Staff does not take a position in the Settlement about whether the acquisition of those resources was prudent for purposes of inclusion in Washington rates.[72] The issue of whether the acquisition of those resources was prudent will be deferred to a subsequent proceeding, if the choice of an inter-jurisdictional cost allocation methodology requires an evaluation of prudence for setting Washington rates.[73]

50 For the limited purposes of the Settlement, Staff and PacifiCorp believe it is reasonable to include the Eastern Control Area resources in the determination of transition period net power costs, without the necessity of undergoing a full prudence review of those resources in this docket. The record demonstrates that those resources were prudently acquired on a system-wide basis.[74] The compromise to include those resources for the limited purposes set forth in the Settlement is reasonable because the ultimate determination of their prudence in determining Washington allocated costs can be decided—if necessary—once the inter-jurisdictional cost allocation issue is

[72] *Id*. at ll. 12-17.

[73] *Id*. at ll. 17-20.

[74] *See* Exhibit 134, at 62 (MTW-4).

resolved. Therefore, the Commission can determine that their inclusion in the rates resulting from this Settlement is in the public interest.

b. The Settlement Includes Reasonable Provisions for Regulatory Assets and Deferred Debits.

1. Pension liability – FAS 87

51 On November 17, 2003, the Company filed a petition for an accounting order regarding the treatment of pension liability, and a request that the Commission confirm that certain actuarially determined pension costs are recoverable in rates.[75] In that filing, PacifiCorp acknowledged that it may make sense for the Commission to defer consideration of that petition until the conclusion of its anticipated rate case.[76]

52 The settling parties agree that PacifiCorp's actuarially determined FAS 87 pension expense is a recoverable cost.[77] The parties also support expedited resolution of the accounting petition.[78]

2. Trail Mountain Mine Closure Costs

53 The Settlement provides for the recovery of Company's share of the amortization expense related to the closure of the Trail Mountain mine.[79] In its direct case, Staff had

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[75] *In re PacifiCorp's Petition for an Accounting Order*, Docket No. UE-031878 (Nov. 17, 2003).

[76] *Id.*

[77] Exhibit 3, at 7 (Settlement).

[78] Exhibit 1, at 18, l. 11 (Panel); *see also* Exhibit 641T, at 8, l. 1 through 10, l. 2 (Schooley, Direct).

[79] Exhibit 3, at 7 (Settlement).

opposed recovery of these costs because they are associated with the Company's Eastern Control Area.[80] However, in the spirit of compromise, Staff agrees to recommend that the Commission authorize PacifiCorp to accumulate $46.3 million reflecting the Company's unrecovered costs of this asset and closure costs in an Account 182.3, and authorize deferral of these costs as of April 1, 2001.[81] The settling parties recommend that the Commission authorize a five-year amortization period, beginning April 1, 2001 and ending in March of 2006.[82]

54 PacifiCorp filed a petition for an accounting order regarding Trail Mountain mine on October 10, 2003.[83] That petition states how the Company has presented the issue in its other jurisdictions and how other state commissions have addressed the issue.

55 In its direct case, Staff had recommended that this investment not be included in Washington rates because it relates to the Eastern Control Area. By using Protocol as the allocation methodology in the Settlement, the Trail Mountain mine closure costs logically fall within the Settlement context. During the hearing Mr. Schooley explained why Staff agreed to include recovery of those costs in the Settlement:

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[80] Exhibit 641T, at 12, l. 11 through 13, l. 9 (Schooley, Direct).

[81] *See* Exhibit 3, at 7 (Settlement).

[82] *Id.*

[83] *In re PacifiCorp*, Docket No. UE-031657 (Oct. 13, 2003).

> [Staff] will agree, for purposes of the settlement, to accept protocol as a beginning point. And by doing so, we bring in the necessity of addressing, for purposes of setting rates, all the resources of the Company, one of which would be the supply of coal to its various plants.
>
> And the Trail Mountain accounting petition, which had been filed prior to the filing of this rate case, presented sufficient information to state that on a system-wide basis, that would be a positive action for the Company to take and that the cost – the benefits outweighed the costs of closing the mine.[84]

56 Because the Company's actions with respect to the Trail Mountain mine are proper on a system-wide basis, it makes sense to include the closure costs in the rates produced by the Settlement. The Commission should approve the settling parties' proposed treatment.

3. Environmental Remediation Costs.

57 The settling parties also recommend that the Commission enter an accounting order authorizing PacifiCorp to record and defer costs prudently incurred in connection with its environmental remediation program.[85] The Settlement further provides that the only costs eligible for the accounting treatment are those relating to work of outside vendors and contractors for investigation and feasibility studies, sampling, evaluation,

[84] Tr. at 515, ll. 4-16 (Schooley).

[85] Exhibit 1, at 19, ll. 9-12 (Panel).

monitoring, materials, remediation, removal, disposal, and post-remediation work.[86] Costs related to Company personnel or legal costs are not included in the deferral.[87]

58 The Settlement recommendation with respect to the deferral is the same as Staff's recommendation in its direct case.[88] With respect to the adjustment amount, Staff agrees to include costs arising from the Eastern Control Area. In its direct case, Staff excluded Eastern Control Area sites due to its control area-based allocation methodology.[89] The Settlement represents a reasonable treatment of the environmental remediation costs.

B. The Settlement Reasonably Delays the Inter-Jurisdictional Cost Allocation Issue.

59 The Settlement does not resolve the important issue of inter-jurisdictional cost allocation. Under the settlement, the issue is delayed, for what the settling parties believe will be a matter of months.[90] However, the Settlement represents the best possible outcome with respect to inter-jurisdictional cost allocation given the evidence in the record.

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[86] Exhibit 3, at 7 (Settlement).

[87] *Id*.

[88] *See* Exhibit 641T, at 16, l. 12 through 13 l. 2 (Schooley, Direct).

[89] *Id.* at 15, l. 13 through 14 l. 10.

[90] Staff and PacifiCorp offered testimony that the parties should be able to provide the Commission with a status report regarding an allocation methodology by April 1, 2005. Tr. at 766, ll. 10-20; (Buckley); 776, ll. 9-21 (Kelly & Schooley).

60 Resolving the inter-jurisdictional cost allocation issue is of paramount interest to Staff because "virtually every value, every number, every adjustment in this case is dependent to a greater or lesser extent on the methodology used to allocate figures amongst the various jurisdictions where PacifiCorp does business."[91] By delaying the issue, the settling parties acknowledge the most important aspect of choosing an inter-jurisdictional cost allocation methodology: Getting it right.

1. No Party Advanced a Going-Forward Allocation Method.

61 Much of the evidence in the record pertains to inter-jurisdictional cost allocation. Mr. Buckley filed over 100 pages of testimony addressing the issue, including a critique of PacifiCorp's Protocol and a description of Staff's control area-based methodology.[92] PacifiCorp filed considerable testimony regarding the issue, as well.[93] Public Counsel testified regarding the inter-jurisdictional cost allocation issue and proposed an inter-jurisdictional cost allocation method (situs method).[94] ICNU filed testimony regarding inter-jurisdictional cost allocation.[95]

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[91] Tr. at 328, ll. 1-7 (Braden).

[92] *See* Exhibit 581T (Buckley, Direct).

[93] *See, e.g.*, Exhibits 71T-75 (Kelly), 101T-111 (Duvall), 291T-310 (Taylor).

[94] *See* Exhibit 501T, at 9, l.11 through 12, l. 2 (Lazar, Direct).

[95] *See* Exhibit 401TC, at 51-78 (Falkenberg, Confidential Direct).

62 Despite the considerable testimony and documentary evidence on the record pertaining to the inter-jurisdictional cost allocation issue, no party advanced a going-forward methodology. Staff expressly recommended that the Commission adopt its control area-based method on a transitional basis.[96]

63 In its initial filing, the Company advocated that the Commission adopt the Protocol.[97] However, in its rebuttal case, PacifiCorp filed its Revised Protocol, but stated that it was not opposed to the Commission deciding the case on the basis of Protocol.[98] By filing the Revised Protocol, the Company impliedly acknowledged that Protocol was not a sustainable resolution to the inter-jurisdictional cost allocation issue.

64 Public Counsel acknowledged that its situs method likely would not be accepted by other jurisdictions, and therefore would result in under-recovery of PacifiCorp's power costs.[99] Thus, Public Counsel's proposal is unsuitable for setting compensatory rates on a going-forward basis.

65 ICNU critiqued the Protocol, and advanced some adjustments to it.[100] ICNU did

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[96] Exhibit 581T, at 115, ll. 1-16 (Buckley, Direct).

[97] *See* Exhibit 71T, at 1, l. 22 through 2, l. 1 (Kelly, Direct).

[98] Exhibit 32T, at 6, l. 21 through 7 l. 9 (Furman, Rebuttal); see also Exhibit 75 (ALK-5, Revised Protocol).

[99] Tr. at 414, l. 10 through 416, l. 6 (Lazar).

[100] *See* Exhibit 401TC, at 70, l. 4 through 78 l. 13 (Falkenberg, Confidential Direct).

not develop an alternative cost allocation method.[101]

66 Given the evidence on the record, the best the Commission could do in this docket would be to evaluate PacifiCorp's rate increase request on the basis of a transitional methodology.[102] The Settlement affords the Commission (and the parties) with an opportunity to do better.

2. The Benefits of Delaying the Allocation Issue Outweigh the Risks.

67 The issue of PacifiCorp's inter-jurisdictional cost allocation has been pending for years. It is an important issue that should be resolved. Nevertheless, the benefits of delaying the issue for approximately six months far outweigh the risks.

68 ICNU criticizes the Settlement because it does not finally resolve the inter-jurisdictional cost allocation issue.[103] ICNU cites Docket No. UE-020417[104] as an example of why the Settlement poses a "serious problem" by not resolving the allocation issue.[105]

69 ICNU's criticism is without merit for two reasons. First, ICNU recommended that the Commission bifurcate the allocation issue and consider it in a separate phase,[106] and ICNU recommended that the allocation issue should be delayed if PacifiCorp were

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[101] *See id*. at 70, ll. 4-24.

[102] As argued below, the Revised Protocol is not a viable option at this time.

[103] *See* Tr. at 534, ll. 16-24 (Falkenberg).

[104] We assume Mr. Falkenberg referred to Docket No. UE-020417, the docket in which the Commission issued its Order Amending Rate Plan. *See supra* n.8.

[105] Tr. at 536, l. 22 through 537, l.5.

[106] Exhibit 401T, at 78, ll. 9-11 (Falkenberg, Confidential Direct).

to file the Revised Protocol in Washington.[107] ICNU's contention that a short delay in resolving the allocation issue is a "problem" is not credible.

70 Second, ICNU fails to acknowledge that the Company bears the risk of delaying a decision on an allocation methodology. While an allocation methodology is not essential to establish a deferral account,[108] the Company undoubtedly is mindful of the result in Docket No. UE-020417. In that case, PacifiCorp had requested a deferral account for excess power costs and recovery of those costs.[109] The Commission denied that request, in part because "the appropriate basis for inter-jurisdictional allocation of power costs has not been satisfactorily resolved."[110]

71 The settling parties have committed to work together to bring an allocation method to the Commission for determination. In the meantime, it is possible that the issue will come before the Commission in other contexts, such as a deferral, but the Company bears the risk of not having an approved methodology in place should that occur.

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[107] *Id*. at 78, ll. 9-11. Mr. Falkenberg stated that if PacifiCorp were to file the Revised Protocol on in its rebuttal case, the Commission should "suspend and reset the schedule to allow for full discovery of other issues." We will not attempt to explain the procedural difficulties raised by this statement, and we presume that Mr. Falkenberg assumed that no rate increase would take effect in the meantime. We simply note that ICNU has agreed that a delay in resolving the allocation methodology may have advantages, one being additional time to conduct full discovery of the issues.

[108] Tr. at 686, ll. 19-24 (Schooley).

[109] Order Amending Rate Plan, ¶ 47.

[110] *Id.*, ¶¶ 30-31.

72 Mr. Braden explained why deferring the issue, while not without its risks, is in the public interest:

> It would have pleased me tremendously to be able to present a proposal to you, whether we were in agreement with the Company or not, that would have represented a comprehensive solution to the allocation issue. I believe that was the intent of the parties as this case was initiated, and the hope of the parties.
>
> Frankly circumstances have conspired against us in being able to do so, because of the fact that the protocol, as has been testified to and by a variety of people, has been a moving target. And what we spent a great deal of time and effort analyzing is not actually the proposal that would provide the uniformity that you spoke of, which we believe does have value as well.
>
> So it's really not something that we can give you a clear opinion on at this point. What we have tried to do in the settlement, however, is open the door for being able to give you the opportunity to make that determination by creating an environment where the Company, and Staff, and other interested parties will be able to take a look at allocation issues, kind of once the ball has stopped rolling.
>
> As you heard testimony, it appears very promising that there will be an agreement on a uniform methodology in the other states, meaning we will actually have a fixed target that we can analyze.[111]

The Commission should reject the contentions that it is not in the public interest to allow the parties additional time to resolve the allocation issue.

3. Delaying the Allocation Issue Will Allow Washington Parties to Capitalize on Momentum Gained by Approval of the Revised Protocol in Other Jurisdictions.

73 Resolution of the inter-jurisdictional cost allocation issue has eluded the Company and the state regulatory commissions in its service territory for years.

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[111] Tr. at 503, l. 7 through 504, l. 10 (Braden).

PacifiCorp expects that Utah, Oregon, and Wyoming will issue orders regarding the Revised Protocol by the end of this year.[112] Ms. Kelly testified that once the other state commissions have decided the allocation issue that "will put us in a better place to be able to move forward in Washington to be able to develop a mutually acceptable solution."[113] Ms. Kelly also testified that one of the benefits of the stipulation is that it will give the parties the opportunity to determine what direction they want to take with respect to an allocation methodology for Washington, whether that would be the Revised Protocol or another method.[114]

C. The Commission Should Reject ICNU's Request to Adopt the Revised Protocol.

74 In its opposition to the Settlement, ICNU advanced PacifiCorp's Revised Protocol as an improvement over the Protocol.[115] ICNU's strategy for advancing the Revised Protocol is unclear. ICNU may want the Commission to adopt the Settlement based on Revised Protocol as a means to scuttle the Settlement that it opposes.[116] Or, ICNU may want the Commission to adopt the Revised Protocol because it believes the Revised

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[112] Tr. at 780, l. 24 through 781, l. 11 (Kelly).

[113] Tr. at 331, ll. 13-18 (Kelly).

[114] Tr. at 497, 497, l.20 through 498 l. 5 (Kelly).

[115] Tr. at 538, ll.15-23 (Falkenberg).

[116] Under the Settlement, if the Commission were to approve the Settlement, but order that the revenue requirement or any other component be based on Revised Protocol, that would trigger the provision of the Settlement that allows the settling parties to withdraw from the agreement. *Exhibit 3, at 9-10 (Settlement).*

Protocol will result in a reduced revenue requirement. Regardless of ICNU's motives, the Commission should not decide this case on the basis of Revised Protocol.

75 ICNU criticizes Staff for its inability to fully analyze the Revised Protocol in this docket.[117] Unlike ICNU, Staff is not a party in the Oregon docket where the Revised Protocol is directly at issue.[118] Therefore, Staff has not had the opportunity to fully analyze the Revised Protocol and it cannot make a meaningful recommendation to the Commission regarding whether adoption of the Revised Protocol, with or without conditions, is in the public interest.

76 With all due respect to ICNU and its efforts in Oregon, the Commission should not adopt the Revised Protocol simply because an association of large industrial users believes that the Revised Protocol (as conditioned by ICNU) is a better allocation methodology than the Protocol. Rather, the Commission should adopt the Settlement and afford Staff and other parties with an opportunity to analyze the Revised Protocol to see whether its adoption would be in the best interest of all of PacifiCorp's Washington customers.

77 As support for Revised Protocol, ICNU recounted the changes to the Revised Protocol that it had recommended to the Oregon Commission.[119] However, PacifiCorp

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[117] Tr. at 539, l. 22 through 540, l. 17 (Falkenberg).

[118] *See* Tr. at 542, l. 21 through 542, l. 1 (Falkenberg).

[119] Tr. at 543, l. 16 through 544, l. 22 (Falkenberg).

testified that ICNU's recommended changes to the Revised Protocol are so significant that they produce a "third Protocol."[120] PacifiCorp also responded to ICNU's criticisms of the Revised Protocol.[121] As this testimony proves, there are many issues stemming from the Revised Protocol that Staff and the parties should have the opportunity to work through.

78 For example, without prejudging the merits of the Revised Protocol, Staff has a number of initial concerns about. First, Staff is concerned about how the Revised Protocol allocates the costs and benefits of hydro reserves.[122] Staff also is concerned about the how the Revised Protocol incorporates changes in load growth.[123] Staff cannot agree that the Revised Protocol would produce a lower revenue requirement than the Protocol.[124] Unlike ICNU, Staff will not support the Revised Protocol just because of a contention that that application of the Revised Protocol would reduce the Washington revenue requirement in the test year.[125] Most importantly, Staff requires

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[120] Tr. at 776, l. 22 (Kelly).

[121] Tr. at 777, l. 18 through 780 l. 13 (Kelly).

[122] Tr. at 772, l. 20 through 773, l. 13 (Buckley).

[123] Tr. at 773, ll. 14-25 (Buckley).

[124] Tr. at 771, ll. 13-24 (Buckley).

[125] *Tr. at 772, ll. 3-9 (Buckley).*

time to evaluate the Revised Protocol to determine what affect it will have on Washington rates today and in the future.[126]

79 The Settlement reasonably provides the parties with the opportunity to consider the inter-jurisdictional cost allocation issue. During that process, PacifiCorp likely will put the Revised Protocol forward for discussion. The parties would be able to either recommend changes to the Revised Protocol,[127] or sponsor a different methodology. The value of these meetings would be lost if the Commission were to adopt the Revised Protocol in this docket because the Company would have little incentive to compromise on a method that already received the Commission's stamp of approval.

80 For the foregoing reasons, adoption of the Revised Protocol in this docket would not be in the public interest. The Commission should adopt the Settlement as presented.

D. The Settlement Is Consistent With the Terms of the Commission's Order Amending the Rate Plan.

1. The Commission's Order Amending the Rate Plan Does Not Mandate Resolution of the Allocation Issue as a Condition for Granting PacifiCorp Rate Relief in a General Rate Case.

81 Public Counsel and ICNU have argued that the Settlement is inconsistent with the Commission's Order Amending Rate Plan because it does not resolve the allocation

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[126] Tr. at 772, ll. 3-9 (Buckley); 786, l. 23 through 787, l. 4 (Schooley).

[127] ICNU apparently would support a process whereby the Commission would have an opportunity to adopt the Revised Protocol with changes or conditions. Tr. 544, l. 23 through 545, l. 14 (Falkenberg).

issue.[128] However, Public Counsel and ICNU misread the Commission's order.

82 Nowhere in the Order Amending Rate Plan does the Commission condition rate relief on resolution of the allocation issue. The Commission stated the absence of an allocation methodology was one obstacle in granting PacifiCorp's request to recover excess power costs, and that a general rate case was the proper vehicle for the Company to request rate relief in the absence of an allocation methodology.[129]

83 In amending the rate plan to allow PacifiCorp to file a general rate case before the expiration of the rate plan, the Commission acknowledged that the outcome of the multi-state allocation process would inform PacifiCorp's request for a general rate increase.[130] PacifiCorp filed a rate case and presented an allocation methodology that was contested by the parties, some of which advanced different allocation methodologies. Staff, PacifiCorp, and NRDC reached a compromise on the Company's revenue requirement, after a thorough review of all of the evidence that the Commission expects in a general rate case. While the Settlement does not resolve the inter-jurisdictional cost allocation issues, the Settlement is indeed "informed" by the issue.[131]

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[128] *See* Tr. at 401, ll. 1-18 (Lazar); 534, ll. 16-24 (Falkenberg).

[129] Order Amending Rate Plan, ¶ 31.

[130] *Id.*, ¶ 23 & n.10.

[131] *See* Exhibit 1, at 4, l.7 through 7, l. 5 (Panel).

2. The Rate Plan Has No Bearing on this Docket.

84 One of the recurring themes of Public Counsel's and ICNU's opposition to the Settlement is their continued objection to the Commission's Order Amending Rate Plan. The Commission should disregard this collateral attack on its order.

85 In testimony opposing the Settlement, Public Counsel opined that if the Commission were to approve the Settlement, the rates should not take effect until the end of 2005—the end of the rate plan.[132] ICNU testified that the Commission should hold the Company to a very high standard on every issue in this docket because the rate case is an early exit from the rate plan.[133]

86 Public Counsel's recommendation to delay any rate request until the end of the rate plan cannot be squared with the Order Amending Rate Plan. In that order, the Commission held:

> The Rate Plan requirement limiting the Company's ability to file a general rate case before July 1, 2005, is contrary to the public interest because it does not permit adequate oversight by the Commission to ensure that the Company's rates will remain, fair, just, reasonable, and sufficient through the end of the Rate Plan Period.[134]

The Commission amended the rate plan because doing so was in the public interest. As a consequence, it would not be in the public interest for the Commission to determine

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[132] Tr. at 397, ll. 8-14 (Lazar).

[133] Tr. at 559, l. 18 through 562, l. 5 (Falkenberg).

[134] Order Amending Rate Plan, ¶ 49.

that PacifiCorp is entitled to a rate increase, but withhold that relief until the expiration of the rate plan.

87 ICNU's recommendation that the Commission impose a higher standard on PacifiCorp's request for a general rate increase is equally flawed. The Commission does not have gradation of standards for granting rate increases. Rather, the Commission has a single standard—the public interest.

3. The Order Amending Rate Plan Contemplates a General Rate Case. The Settlement is the Product of a General Rate Case.

88 In its Order Amending Rate Plan, the Commission determined that a general rate case would be necessary for PacifiCorp to receive a rate increase. This docket is that general rate case. The Company's initial filing was scrutinized by Staff, Public Counsel, and various intervenors. The record is voluminous. The Settlement, which was reached a few days before hearings were to commence, is the product of a general rate case. The Settlement satisfies the requirement that PacifiCorp will receive a rate increase as a result of a general rate case.

IV. CONCLUSION

89 The Settlement is a reasonable compromise of the issues presented in this docket. It is based on substantial evidence and reflects the settling parties' extensive review of the evidence. The Settlement complies with this Commission's statutory and regulatory principles governing general rate cases. The Settlement results in rates that are fair, just, reasonable, and sufficient.

90 The Settlement also affords parties the opportunity to resolve the inter-jurisdictional cost allocation issue, which cannot be resolved on the record in this docket. The Company has what is very close to a final version of its allocation proposal, which is moving toward resolution by the end of this year in the other states where it provides service. Washington parties will have a final Company methodology to study in the coming months. By April 1, 2005, the settling parties commit to filing a status report on the progress of their discussions—which will inform the Commission whether there is agreement or disagreement on an allocation methodology.

91 For the foregoing reasons, the Settlement is in the public interest. The Commission should approve it.

Dated: October 8, 2004.

Respectfully submitted,

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