[Service Date October 27, 2004]

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKET NO. UE-032065
Complainant,	)	ORDER NO. 06
v.	)	APPROVING AND ADOPTING SETTLEMENT AGREEMENT SUBJECT TO CONDITIONS; REJECTING TARIFF SHEETS; AUTHORIZING AND REQUIRING COMPLIANCE FILING
PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY	)	
Respondent.	)	
. . . . .	)	

Synopsis: The Commission approves and adopts a multi-party Settlement Agreement, subject to conditions, as a reasonable resolution of PacifiCorp's request for a general increase in electric rates. The resulting increase in rates will allow PacifiCorp to recover an additional $15,057,000 in revenue, representing an increase in rates of approximately 7.5 percent.

SUMMARY

1 **PROCEEDINGS:** On December 16, 2003, PacifiCorp d/b/a Pacific Power & Light Company ("PacifiCorp" or the "Company") filed with the Commission revisions to its currently effective Tariff WN U-74, designated as set forth in paragraph 1 of the Commission's Complaint and Order No. 01 in this proceeding. The tariff sheets included a stated effective date of January 16, 2004. PacifiCorp requested an increase in annual revenues from Washington operations of $26.7 million, resulting in a proposed uniform increase in rates of 13.5 percent. The filing was based on a test period consisting of the twelve months ending March 31, 2003. The Commission entered its Complaint and Order Suspending Tariff Revisions on January 14, 2004. PacifiCorp and the Commission's regulatory staff

("Commission Staff" or "Staff")[1] filed a multi-party settlement Agreement on August 24, 2004.[2] Public Counsel and the Industrial Customers of Northwest Utilities opposed the settlement. The Commission conducted evidentiary hearings before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, Commissioner Patrick J. Oshie, and Administrative Law Judge Dennis J. Moss on September 9, 10, 16, and 17, 2004. The Commission conducted a public comment hearing on September 27, 2004, in Yakima, Washington. The parties filed briefs on October 8, 2004.

2 **PARTIES:** James M. Van Nostrand, George M. Galloway, and Stephen C. Hall, Stoel Rives LLP, Seattle, Washington, and Portland Oregon, represent PacifiCorp. Melinda Davison, S. Bradley Van Cleve, and Irion Sanger, Davison Van Cleve PC, Portland, Oregon, represent the Industrial Customers of Northwest Utilities ("ICNU"). John O'Rourke, Program Director, Spokane, Washington, represents the Citizens' Utility Alliance of Washington ("Alliance"). Ralph Cavanagh, Northwest Project Director, San Francisco, California, represents the Natural Resources Defense Council ("NRDC"). Chuck Ebert, Bellingham, Washington, represents the Energy Project, Opportunity Council, Northwest Community Action Center, and Industrialization Center of Washington (collectively "Energy Project"). Robert Cromwell, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General. Shannon Smith, Assistant Attorney General, Olympia, Washington, represents the Commission Staff.

3 **COMMISSION DECISION:** The Commission determines that its approval and adoption of the proposed settlement agreement, with conditions, provides a

---

[1] In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. *RCW 34.05.455.*
[2] The Natural Resources Defense Council joined the settlement and a revised version was filed on August 27, 2004.

reasonable resolution of the issues pending in this proceeding and is in the public interest. The end result will be rates for prospective application that are fair, just, reasonable, and sufficient.

MEMORANDUM

I. Background and Procedural History

4 PacifiCorp provides retail electric service in six states: Utah, Oregon, Idaho, Wyoming, California, and Washington. The Company's retail customers in Washington account for approximately 8 percent of the company's total customers and 8.5 percent of the total Company load. Utah and Oregon are PacifiCorp's largest and second largest operations, respectively, followed by Wyoming. PacifiCorp's' Idaho and California operations each are somewhat smaller than the Company's operations in Washington.

5 On December 16, 2003, PacifiCorp filed with the Commission revisions to its currently effective Tariff WN U-74, designated as set forth in paragraph 1 of the Commission's Complaint and Order No. 01 in this proceeding. The stated effective date was January 16, 2004. PacifiCorp requested an increase in annual revenues from Washington operations of $26.7 million, resulting in a proposed uniform increase in rates of 13.5 percent. The filing was based on a test period consisting of the twelve months ending March 31, 2003. The Commission entered its Complaint and Order Suspending Tariff Revisions on January 14, 2004. The Commission conducted a prehearing conference on January 26, 2004, and, among other things, established a procedural schedule.

6 Staff, intervenors, and Public Counsel filed response testimony and exhibits on July 2, 2004. Staff proposed a revenue requirement increase of $7.1 million. ICNU's testimony proposed adjustments to reduce PacifiCorp's requested increase in Washington revenues by approximately $10.8 million. Public

Counsel proposed to decrease the Company's Washington revenues by approximately $25 million.

7 PacifiCorp filed rebuttal testimony on July 28, 2004. In its rebuttal testimony, PacifiCorp revised its requested revenue requirement increase to $25.7 million.

8 On August 24, 2004, less than one week prior to commencement of scheduled evidentiary hearings, PacifiCorp and Staff filed a multi-party Settlement Agreement, which these parties proposed be adopted by the Commission as a full resolution of the issues pending in this proceeding. NRDC, following further discussion and an amendment to the original settlement stipulation, joined in a revised Settlement Agreement filed on August 27, 2004. The proposed settlement provides for a revenue requirement increase of $15,501,000.

9 ICNU and Public Counsel oppose the settlement and urge its rejection. Energy Project and the Alliance take no formal position on the proposed settlement.

10 The Commission conducted hearings before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, Commissioner Patrick J. Oshie, and Administrative Law Judge Dennis J. Moss on September 9, 10, 16, and 17, 2004. Commissioner Oshie and ALJ Moss conducted a public comment hearing in Yakima, Washington on September 27, 2004. The record in this proceeding, formally closed on September 30, 2004, includes testimony by 37 witnesses, more than 400 exhibits, and 7 transcript volumes including 840 pages of text. PacifiCorp, Staff, NRDC, ICNU, and Public Counsel filed briefs on October 8, 2004.

II. Discussion

A. Introduction

11 We have before us a multi-party settlement. PacifiCorp and Staff, the only parties that presented fully developed revenue-requirement cases, were able to achieve compromises on a host of issues. They have agreed to an end result in terms of revenue requirement and rates that both parties regard as fair, just, reasonable, and sufficient. NRDC joins in supporting the proposed settlement in consideration of the addition of a provision resolving its interests.

12 ICNU and Public Counsel oppose the proposed settlement. They argue that PacifiCorp should not receive approval for any increase in rates at this time. Public Counsel focuses its objection on the proposition that "the current proceeding, including the proposed settlement, should be rejected by the Commission as inconsistent with the Rate Plan."[3] Public Counsel, however, also contends that certain specific methodologies and adjustments that are underlying elements in the proposed Settlement Agreement are contrary to the public interest or not supported by the evidence. ICNU contends that the proposed settlement does not satisfy the requirements of the Commission's order that authorized PacifiCorp to file the tariff revisions that initiated this rate proceeding. ICNU also argues that the proposed settlement does not account for various adjustments advocated by the non-settling parties.

13 These respective positions should be understood in their historical context. For the genesis, we look back 17 years to the August 12, 1987, merger agreement between Pacific Power and Light with Utah Power and Light. The Commission considered and approved that merger, with conditions, by order entered in

---

[3] Public Counsel Brief at 3, ¶4. The Rate Plan to which Public Counsel refers resulted from the Commission's approval and adoption of a settlement agreement in Docket No. UE-991832. The Commission subsequently modified its order approving the settlement, expressly authorizing PacifiCorp to file the rate case before us today. We discuss this point in more detail below.

Docket No. U-87-1338-AT, on July 15, 1988.[4] Among other things, the Commission required the Company to file revised tariff sheets that would reflect allocation to Washington rates of an equitable share of the financial benefits that were projected to occur during the early years following the merger.

14 Inter-jurisdictional allocation of costs among the six states PacifiCorp serves has proved to be a continuing source of controversy for many years. It has been an issue in various proceedings in Washington, including PacifiCorp's two most recent contested dockets involving requests by the Company for adjustments to rates.

15 In PacifiCorp's most recent general rate filing preceding this docket, the Company proposed that costs be allocated to Washington rates according to a methodology to which Commission Staff, and other parties, strenuously objected. The proceeding, Docket No. UE-991832, was resolved on the basis of the Commission's approval and adoption of a full settlement among all parties that implicitly reserved for another day any definitive resolution of the complex issues involved in inter-jurisdictional cost allocation.[5]

16 We have come to refer to the Stipulation that the Commission approved and adopted in Docket No. UE-991832 as the "Rate Plan." In part relevant to our background discussion here, the Stipulation states:

> **1. Rate Plan Period**
>
> **a. Term.** The rate plan period established in this Stipulation ("Rate Plan Period") commences as of the date of the Commission order approving this Stipulation and continues through December 31, 2005. During the Rate Plan Period, the Parties will neither propose,

[4] *Exh. No. 511.*
[5] *WUTC v. PacifiCorp,* Third Supplemental Order, Docket No. UE-991832 (August 9, 2000).

> nor will they recommend that the Commission approve, any change in the Company's general base rates in Washington.
>
> **b. Purpose.** The Parties agree that **t**he rate plan offered in this Stipulation is in the public interest and will provide rates for the Company that are just, fair, reasonable and sufficient throughout the Rate Plan Period. The rate plan is designed to achieve several objectives for the Company and its customers over the Rate Plan Period. First, the staging of rate increases over a three-year period lessens the impact on customers of the increases that the Parties have agreed are necessary. The rate plan, after taking into account the other credits that will be flowed through to customers, provides for relative rate stability for a period in excess of five years.
>
> Second, the rate plan covers a period of significant transition for the Company. The rate plan recognizes the difficulty of setting rates during this transitional period, and provides the Company with an opportunity to earn reasonable returns, on balance, over the Rate Plan Period. At the same time, customers are provided predictable and relatively stable rates for the Rate Plan Period.
>
> Third, the rate plan provides that at the end of the Rate Plan Period, the Company will submit either a filing demonstrating the reasonableness of the Company's then-existing rates or a general rate filing. This filing will enable the Commission and the Parties to examine the Company's performance over the Rate Plan Period, and to evaluate the reasonableness of the Company's rates in light of the conditions that exist following the Rate Plan Period.

17 On April 5, 2002, PacifiCorp filed in Docket No. UE-020417 a petition for an order authorizing deferral of "excess" net power costs assertedly incurred by the Company to serve Washington customers though the period of the Western energy crisis that occurred during 2000-2001. PacifiCorp's petition referred to the fact that it was then subject to the Rate Plan and that the Rate Plan limited the availability of general rate increases through 2005. Based on a fully developed record, the Company proposed several alternative forms of relief, including a

recommendation that the Commission could deny the deferral request, and determine that the Company's sole means of obtaining rate relief would be through a general rate proceeding that the Commission would authorize PacifiCorp to file by the end of 2003.

18 The Commission, in its final order in Docket No. UE-020417,[6] said:

> On balance, considering all the evidence, we determine that PacifiCorp has not borne its burden to demonstrate entitlement to deferral accounting or immediate rate relief.
>
> We do, however, conclude that the record, considered as a whole, demonstrates that the Rate Plan has been so overtaken by events that it no longer is in the public interest for the Company's rates to remain unexamined through the Rate Plan Period. We emphasize that the record in this proceeding is not an adequate one upon which to conclude that PacifiCorp's current rates are not fair, just, reasonable, and sufficient. The record here, however, is adequate to bring into question whether that standard will be satisfied when considered in light of a current test year with properly restated, normalized, and pro formed results. PacifiCorp's Washington operations have not been thoroughly reviewed on a full general rate case record in 17 years. Such an examination is long overdue and seems absolutely imperative in the wake of the recent power market crisis. It would be contrary to the public interest for us to bar this important matter from full consideration at an early date. Accordingly, we conclude that we should amend our Third Supplemental Order in Docket No. UE-991832 to the extent necessary to authorize PacifiCorp to file a general rate case prior to the end of this year as the Company has committed to do, if permitted.

---

[6] *Re PacifiCorp*, Docket Nos. UE-991832 and UE-020417, Sixth/Eighth Suppl. Order, pp. 10-11, ¶¶22-23 (July 15, 2003).

We noted in this connection that a so-called multi-state process was underway and expected to be finalized in the near term. We noted further that the outcome of that process, which was aimed at achieving a comprehensive resolution of the long-pending disputes over inter-jurisdictional cost allocation, "should inform PacifiCorp's filing with respect to the important question of inter-jurisdictional cost allocation issues."[7]

19 In the last "Discussion and Decision" paragraph in our final order in Docket No. UE-020417,[8] we reiterated the Commission's concern, as expressed in the final order in Docket No. UE-991832, that PacifiCorp had not been closely scrutinized in a general rate proceeding for nearly two decades. The balance of the referenced paragraph states:

> Such an examination is long overdue. Without such an examination, we can only approximate, even guess at, the important baselines against which claims of excessive power costs and their impact on the Company's operations must be measured if we are to reach meaningful results. We place no particular fault on PacifiCorp for this state of affairs, yet it is the state of affairs we, and the Company, face. The appropriate solution, we conclude, is to authorize PacifiCorp to file a general rate case.

That case is before us now.

B. The Settlement Agreement

20 The proposed Settlement Agreement is attached as Appendix A to this Order. By way of brief summary, we excerpt from some parts of the Agreement here to set the stage for our discussion in section III.C., below.

---

[7] *Id., fn. 10.*
[8] *Id., p. 19, ¶43.*

21 The settling parties, having presented fundamentally different inter-jurisdictional cost-allocation methodologies through their respective testimonies, agree that the "Protocol" method PacifiCorp used in its filing and advocated for adoption for purposes of this case "represents the only common basis for evaluating the Company's case [and] upon which the Parties could evaluate each other's proposed adjustments."[9] Accordingly, they agree "that PacifiCorp's revenue requirement in this proceeding will be calculated on the basis of the Protocol."[10] The Settlement Agreement emphasizes that Protocol is used "for purpose of this proceeding only."[11]

22 The settling parties also agree to initiate discussions immediately following this proceeding to "discuss development of a mutually acceptable cost allocation proposal applicable to Washington."[12] Pending the conclusion of those discussions, and without agreeing that any particular allocation methodology is "sufficient or proper for use in any future proceedings before the Commission," the settling parties agree that "the Company will use the Revised Protocol as the basis for its routine regulatory filings with the Commission."[13]

23 As to revenue requirement, the Settlement Agreement provides in ¶9 that:

> The Parties agree that PacifiCorp will reduce its revenue requirement request to reflect the adjustments listed on Attachment

---

[9] *Exh. No. 3, Settlement Agreement at p. 3, ¶8.a.* This Protocol, sometimes referred to as the "Original Protocol," is the allocation methodology PacifiCorp was advocating for adoption in multiple jurisdictions at the time the Company filed its revised tariff sheets in this proceeding. Further negotiations in Utah and Oregon during the pendency of this proceeding led to a materially different "Revised Protocol" that, by the close of the record here, was pending for approval in several of the states in which PacifiCorp provides service. The "Revised Protocol" was presented in PacifiCorp's rebuttal case as a preferred methodology, but remains largely unexamined by other parties in the context of this proceeding.

[10] *Id. at ¶ 8.b.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

> A to this Settlement Agreement. PacifiCorp's rebuttal testimony supported a revenue requirement increase of $25.7 million. The adjustments listed on Attachment A reduce this amount by approximately $10.2 million, resulting in a recommended revenue requirement increase of $15.5 million.

24 The Settlement Agreement discusses in ¶10 individual revenue-requirement issues. This paragraph states that while the settling parties were not able to agree to each of the components of cost of capital, they did agree to an overall cost-of-capital adjustment of $3.5 million. The Settlement Agreement states that this produces an overall rate of return of 8.39% when considered along with the other adjustments included in the Settlement Agreement.[14] Thus, the Settlement Agreement would establish a benchmark against which the Company's future performance can be measured.

25 Turning to net power costs in ¶10.b. the Settlement Agreement provides: "The Parties agree that the Company's filed net power costs should be reduced from $555 million on a Total Company basis (as stated in the Company's rebuttal case) to $534.1 million."[15] Individual adjustments are shown on Attachment B to the Settlement Agreement. Washington's share of the reduction in power costs, allocated on the Protocol basis, is approximately $1.93 million, as shown on Attachment A to the Settlement Agreement.

26 In ¶ 10.c., the Settlement Agreement provides that the prudence of resources acquired since 1986 located in the Company's Eastern Control Area "will be examined in a subsequent proceeding if and when it is determined that the inter-jurisdictional cost allocation methodology requires their prudence to be evaluated for purposes of setting Washington rates." Staff agrees that Hermiston and James River generation—resources acquired since 1986 located in the Company's Western Control Area—were prudently acquired to serve

---

[14] *Id. at ¶ 10.a.*
[15] *Id. at ¶ 10.b.*

Washington customers and are properly included in rate base in this, and future proceedings.

27 In ¶11 of the Settlement Agreement, the settling parties agree to adopt the rate spread and rate design recommendations set forth in the joint testimony of Public Counsel witness Jim Lazar, ICNU witness Don Schoenbeck, and Staff witness Joelle Steward.[16]

28 Regulatory assets and deferred debits are discussed in ¶¶ 12 and 13 of the Settlement Agreement. In ¶ 12.a. the settling parties agree and ask the Commission to confirm that PacifiCorp's "actuarially determined FAS 87 pension expense is a recoverable cost." Staff, for its part, agrees to expedite the processing of the Company's pending request for an accounting order concerning the treatment of this expense.

29 The Settlement Agreement states in ¶ 12.b. that:

> Trail Mountain. The Parties recommend that the Commission issue an accounting order authorizing the Company to accumulate the $46.3 million reflecting the Company's unrecovered investment in Trail Mountain Mine and related mine closure costs and to record such investment in Account 182.3. The Parties request that the Commission approve deferral of these costs as of April 1, 2001. In addition, the Parties ask that the Commission authorize five years as a reasonable period over which to amortize the costs associated with the Trail Mountain Mine closure, with amortization commencing with the establishment of the deferral, April 1, 2001, and ending March 2006.

30 In ¶ 12.c., the settling parties "recommend that the Commission issue an accounting order authorizing the Company to record and defer costs prudently

[16] *Exh. No. 621.*

incurred in connection with its environmental remediation program, on an ongoing basis." The paragraph describes the categories of costs the parties would have the Commission authorize for the proposed accounting treatment. The settling parties ask for a finding that "ten years is a reasonable period over which to amortize these environmental remediation costs."

31 In ¶ 12.d. the Settlement Agreement states: "Except as specifically set forth in the adjustments, all remaining regulatory assets and liabilities are recognized in rates for purposes of this settlement."

32 The Settlement Agreement, as revised to meet NRDC's interest in this proceeding, includes a provision in ¶ 13 entitled "Removing Disincentives to Demand-Side Initiatives," which states:

> The Parties recommend that the Commission's Order in this proceeding address the issue of whether it is in the public interest to investigate a true-up mechanism designed to eliminate financial disincentives associated with the Company's demand-side initiatives, based on a review of NRDC's testimony and other information in the record. Upon such a finding, the Company will initiate discussions with Staff and interested parties to review the effects of demand-side investments on the recovery of fixed costs and other potential disincentives to such investments by the Company, and to address the potential structure of a true-up mechanism that would make recovery of these costs independent of retail electricity sales. After such discussions, the Company may propose a true-up mechanism for consideration by the Commission at the earliest practicable time.

33 The final section of the Settlement Agreement, ¶ 14, includes several sub-paragraphs stating "General Provisions." Among other things, this section provides that if the Commission accepts the Settlement Agreement with conditions not stated in the Agreement, or approves a revenue requirement

different from what the settling parties propose, then any party may elect to state in writing "its rejection of the conditions." The effect, it appears, would be to return the proceeding to its status at the time the settlement was offered, in accordance with the provisions of WAC 480-07-750. However, if the Commission approves a revenue requirement different from what the settling parties propose—what the Settlement Agreement calls a "Revised Rate Increase"— and the Company waives the current suspension period deadline (*i.e.*, November 16, 2004) to accommodate the necessity for further proceedings, the settling parties recommend that PacifiCorp be authorized to implement that Revised Rate Increase at the end of the current suspension period, subject to refund, pending issuance of a final order in this proceeding.

C. Analysis and Decision.

1. Threshold Arguments.

34 A central part of the Commission's statutory responsibility is to "regulate in the public interest, as provided by the public service laws, the rates, services, facilities and practices" of investor-owned electric companies, including PacifiCorp.[17] The public service laws require that electric rates set by the Commission be "just, fair, reasonable, and sufficient."[18] Thus, the Washington Supreme Court has said:

> [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 earn enough to remain in business—each of which functions is as important in the eyes of the law as the other.[19]

---

[17] *RCW 80.01.040(3).*

[18] *RCW 80.28.010.*

[19] *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 (1934)).

We maintain this balance of interests in many instances through the conduct of quasi-judicial proceedings initiated by our suspension of filings in which companies propose to increase rates by tariff revisions or take other actions that may affect rates.[20] As discussed above in greater detail, during recent years we have had two such proceedings concerning PacifiCorp's rates that led to the current proceeding.

35 To summarize briefly, in Docket No. UE-991832 we had a general rate filing by PacifiCorp. Before litigation concluded in that case, the parties submitted a full settlement for the Commission's consideration. The Commission approved and adopted two unopposed stipulations that together established rates that were adjudged at the time, on the basis of the evidence then available, to be just, reasonable, and compensatory for a five-year Rate Plan Period. The Commission stated in its Order approving the settlement that "[t]he stipulations strike an appropriate balance among the interests of the ratepayers, the Company, and the public generally, and are in the public interest."[21]

36 In Docket No. UE-020417, however, the Commission found that the Rate Plan had been overtaken by events, including the Western energy crisis of 2000 –2001. The Commission found that the requirement of our order in Docket No. UE-991832 limiting the Company's ability to file a general rate case before July 1, 2005, had become contrary to the public interest because it would not permit adequate oversight by the Commission to ensure that PacifiCorp's rates would

---

[20] "The public interest is served when the interests of the utility and the interests of the utility's customers are kept in careful balance." *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). The public interest standard, of course, encompasses a broader set of interests. *See, e.g., Application of Puget Sound Energy Re Colstrip,* Third Supp. Order Approving Sale, Docket No. UE-990267 (September 30, 1999).

[21] *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, ¶ 3 (Aug. 9, 2000).

remain fair, just, reasonable, and sufficient through the end of the Rate Plan Period. The Commission amended the Third Supplemental Order in Docket No. UE-991832 to provide that PacifiCorp would be authorized to file a general rate proceeding prior to December 31, 2003, instead of July 1, 2005, as otherwise required under paragraph 3 of the Rate Plan.[22]

37 As expressly authorized by the Commission's Final Order in Docket No. UE-020417, PacifiCorp made a general rate filing in this proceeding on December 16, 2003. Despite this, Public Counsel and ICNU persist in arguing that this proceeding, and the Settlement Agreement now before us as a proposed resolution of the issues in this proceeding, should be rejected because it is "inconsistent with the Rate Plan."[23] This argument is obviously misplaced and we reject it.[24]

38 Public Counsel and ICNU also argue that the proposed Settlement Agreement should be rejected because, as ICNU puts it, "it does not resolve the issues the Commission sought to address when it amended the Rate Plan to allow the Company to file a general rate case."[25] ICNU argues that the Settlement does not provide a comprehensive analysis and determination of PacifiCorp's costs.[26] This ignores, however, the context in which the settlement was proposed. As described earlier, we have a very substantial record in this proceeding. The settling parties filed the proposed Settlement Agreement just days before

---

[22] The Commission's authority to amend its orders is grounded in RCW 80.04.210.
[23] *Public Counsel Brief at 3, ¶4; ICNU Brief at 1, ¶1.*
[24] Indeed, Public Counsel and ICNU well understand the argument is misplaced here, as they are pursuing it in its proper place. 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 Plan period. ICNU joined Public Counsel on brief. The petition 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 Division II of the Court of Appeals (No. 31826-1-II). The appeal is pending argument.
[25] *ICNU Brief at 5, ¶10; See Public Counsel Brief at 5, ¶8.*
[26] *ICNU Brief at 12.*

evidentiary hearings were scheduled to begin. All parties had by then examined PacifiCorp's case and had developed and presented their own responsive cases. After the Settlement Agreement was filed, the Commission conducted further proceedings, including four days of evidentiary hearings during which the opportunity for supplemental direct testimony and for cross-examination was afforded to all parties.

39 Although Public Counsel and ICNU elected not to undertake a comprehensive review of the Company's rate filing, and elected to focus on a few specific issues, Staff did perform "an exhaustive review of PacifiCorp's filed evidence, accounts, books, and records [and] was able to reach a settlement with the Company to produce fair, just, reasonable, and sufficient rates."[27] Staff is the only party other than PacifiCorp that filed a full revenue requirements case. Significantly, Staff's continuing analyses of its response case prior to entering into settlement negotiations had led Staff to consider filing supplemental testimony recommending a revenue requirement in the range of $14 million.[28] The Settlement Agreement sets forth a stipulated results of operations, the bottom line of which is a revenue deficiency of $15.5 million. In short, this compromise between the positions taken by Staff and the Company is a close approximation of what Staff's independent review produced in the final analysis using Staff's as-filed allocation methodology and revised adjustments.

40 Thus, we reject ICNU's contention that the Settlement Agreement filed in this proceeding does not reflect a comprehensive analysis and determination of PacifiCorp's rates. Staff undertook such a review and the significant results are before us in the record.

41 ICNU also argues that no rate increase should be authorized in this proceeding because PacifiCorp's earnings, at present, are consistent with what the Company

---

[27] *Staff Brief at 1, ¶1.*
[28] *Staff Brief at 18, ¶42.*

could have expected under the Rate Plan. Based on the predicate that "[u]nder the Rate Plan, PacifiCorp agreed that it would not receive additional revenues unless it was experiencing conditions sufficient to warrant interim rate relief," ICNU argues that the Company's "earnings do not show that PacifiCorp is suffering a financial emergency or other conditions that would warrant further amendment of the Rate Plan to allow PacifiCorp to increase rates."[29] However, as PacifiCorp argues, there is nothing in the Commission's order that authorized PacifiCorp to make this general rate case filing that precludes rate relief if the standard for interim rate relief is not met, or that ties what may be found in this case to be a reasonable return to anyone's expectations under the Rate Plan.

42 What the Commission authorized by its Final Order in Docket No. UE-020417 was a general rate filing by PacifiCorp—nothing more, and nothing less. Thus, we reject ICNU's argument that PacifiCorp's filing should be evaluated under some higher standard than is applied in other general rate proceedings.

43 Staff succinctly describes in its Brief the fundamental elements that must be considered in evaluating rates in the context of a general rate filing:

> 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.[30]

---

[29] *ICNU Brief at 12, ¶20.*

[30] S*taff Brief at 3, ¶7* (citing *WUTC v. Avista Corp.*, Docket Nos. UE-991606 & UG-991607, Third. Supp. Order, ¶ 14 (Sept. 29, 2000)).

This describes the essential tasks before us. In the case of PacifiCorp, a multi-jurisdictional utility, resolution of the first two tasks requires consideration of inter-jurisdictional cost allocation.

2. Inter-jurisdictional Cost Allocation.

44 Public Counsel describes inter-jurisdictional cost allocation as "the most significant issue in this rate case."[31] Public Counsel argues that the "settlement's most singular failure is its failure to resolve this critical issue."[32] Public Counsel objects both to the settling parties' proposal that we rely on Protocol for the purpose of evaluating the revenue requirement as a key component of the settlement and to the proposed use of Revised Protocol for reporting purposes going forward. Public Counsel argues that PacifiCorp has abandoned Protocol for all purposes other than reaching a settlement here and that Revised Protocol has not been critically examined in this jurisdiction.[33]

45 ICNU makes arguments that are similar to those of Public Counsel with respect to the settling parties' use of Protocol. ICNU contends that greater costs are allocated to Washington under Protocol than under any other method that might arguably have been considered. However, as PacifiCorp argues, ICNU witness Mr. Falkenberg's conclusions were based upon a 14-year present-value analysis. Mr. Falkenberg's supporting exhibits show that in the nearer term, the original Protocol is *beneficial* to Washington consumers, compared to either the Rolled-in or Modified Accord method. According to PacifiCorp, during 2005, 2006, and 2007, under the original Protocol, the average annual Washington revenue

---

[31] *Public Counsel Brief at 6, ¶9* (citing Exh. No. 450 (Docket Nos. UE-991832 and UE-020417, Sixth/Eighth Suppl. Order) at ¶¶ 30-31).
[32] *Public Counsel Brief at 6, ¶ 9.*
[33] *Id. at 7-8, ¶¶ 12,13.*

requirement is reduced by approximately $4.6 million compared to the Rolled-in method and approximately $2.5 million compared to Modified Accord method.[34]

46 ICNU also argues for the adoption of Revised Protocol (albeit with yet additional revisions) as the basis for resolving this proceeding and suggests that the $15.5 million revenue requirement recommended under the Settlement Agreement should be reduced by some amount to reflect the asserted lower revenue requirement that the Revised Protocol would produce.[35] Mr. Braden, however, testified that such an approach would not be appropriate:

> Q. [W]ouldn't it be inequitable to accept the settlement based on original protocol, but say that we're going to use revised protocol on a going forward basis and not give the customers the benefit of the reduction in rates, whatever that may be, associated with revised protocol?
>
> A. I can't characterize the situation the same way in order to give you a simple yes or no answer, because we don't feel that the settlement position of the Staff and our basis for entering into the stipulation is truly based on adoption of the original protocol. It's based on our evaluation of the overall case, looking at our own evaluation methodologies and then striking a compromise.
>
> So I feel that the compromise in and of itself is fair, regardless of which allocation methodology you might use to add up or combine the numbers in different ways to reach that result. So it's really the bottom line revenue

---

[34] *PacifiCorp Brief at 15-16, ¶32* (citing Exh. No. 406C at 34).

[35] *ICNU Brief at 21, ¶¶36, 37*. We do not address in detail ICNU's argument that we should adopt Revised Protocol with ICNU's proposed further revisions because such a step is not supported by a fully developed record. Staff, for example, has not undertaken a thorough review of Revised Protocol. These are matters for the process that is to follow immediately on the heels of this proceeding, as provided by the Settlement Agreement, and discussed in this Order.

> requirement that's encapsulated in the stipulation that we support as fair, just, reasonable and sufficient.[36]

Mr. Braden also stated that any revenue requirement reduction associated with the Revised Protocol "has already been factored into the proposal that the parties have stipulated to."[37]

47 Thus, although the settling parties nominally rely on Protocol in the Settlement Agreement this does not mean that more costs are being allocated to Washington rates under the settlement than would be the case if the settling parties had identified some other allocation methodology for purpose of settlement. While it is true that Revised Protocol would allocate approximately $2.5 million less to Washington rates under PacifiCorp's analysis of that method vis-à-vis original Protocol,[38] the salient fact is that the Settlement Agreement results in $10 million less cost being allocated to Washington rates than under PacifiCorp's as-filed case that is based on original Protocol.

48 There is nothing in the Commission's Final Order in Docket No. UE-020417 that requires resolution of inter-jurisdictional cost allocation in this proceeding on a permanent or on any other basis. That is, as PacifiCorp argues, there is no "language in the order that required inter-jurisdictional cost allocation issue to be resolved in this proceeding as a condition precedent to this filing going forward."[39] However, we are encouraged by the significant progress our record shows that PacifiCorp has made on this issue in other jurisdictions and are optimistic the matter can soon be resolved on a durable basis in Washington. In this regard, Staff states on brief:

---

[36] *TR.659:3-24.*
[37] *TR. 653:3-8.*
[38] *Exh. No. 310 at 1 (Taylor); Exh. No. 32 at 7 (Furman).*
[39] *PacifiCorp Brief at 4, ¶6.*

> 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.[40]

49 PacifiCorp makes the following commitment in its brief:

> As described by Mr. Buckley, Mr. Schooley and Ms. Kelly, the settling parties have developed a specific proposal and timeline for development of a permanent Washington solution of the inter-jurisdictional cost allocation issue. Immediately following commission orders in Utah and Oregon—and no later than December 1, 2004—formal discussions would be initiated. *TR. 764:24 – 765:3 (Buckley)*. On April 1, 2005, a fairly extensive status report would be presented to the Commission, including recommendations for further proceedings. *Id. at 765:16 – 766:4; TR. 776:4-18 (Kelly).* This timeline permits the process to be informed by the MSP outcomes in PacifiCorp's other jurisdictions.[41]

PacifiCorp notes that "[t]he results presumably would be incorporated in the Company's next general rate case, which is expected to be filed during 2005." [42]

50 In light of the foregoing discussion, we determine that the Settlement Agreement satisfies us on the question of inter-jurisdictional cost allocation, representing as it does a significant intermediate step toward an enduring solution. In terms of a

---

[40] *Staff Brief at 1, ¶ 2.*

[41] *PacifiCorp Brief at 17, ¶ 35*

[42] *Id. at (citing TR. 211:19-212:2 (Furman); TR. 330:6-9 (Omohundro)).*

compromise on revenue requirement for purposes of settlement, the settling parties' use of Protocol quite literally is a means to an end, an end that might have been achieved under Staff's allocation methodology, or even some third methodology.

51 Looking forward, the Settlement Agreement's use of Revised Protocol for reporting at least tacitly acknowledges progress toward an allocation methodology that will work in Washington as well as in other states where PacifiCorp provides service. More concretely, the Settlement Agreement establishes a process for expeditiously going forward and Staff and PacifiCorp, at least, are committed to vigorously pursue full resolution of this important matter on a timely basis. In light of these parties' statements on brief, quoted above, we will condition our approval of the Settlement Agreement by imposing the following requirements:

> (1) Immediately following commission orders in the pending proceedings concerning inter-jurisdictional cost allocation in Utah and Oregon—and no later than December 1, 2004—PacifiCorp will initiate discussions in Washington aimed at development of an agreed methodology for inter-jurisdictional cost allocation to be used by PacifiCorp in this jurisdiction.
>
> (2) On or before April 1, 2005, PacifiCorp will present a detailed status report to the Commission concerning inter-jurisdictional cost allocation, including recommendations for further proceedings in Washington.
>
> (3) By October 31, 2005, PacifiCorp will file, either in a general rate proceeding, or in an independent proceeding, a proposal to resolve inter-jurisdictional cost allocation in Washington.

3. Revenue Requirement

52 Parts of our discussion above at least imply that we find the settling parties' compromise on overall revenue requirement reasonable. We make that finding explicit here and turn now to a more detailed discussion of the point.

53 In 1997, the Washington Supreme Court reaffirmed the enduring principle stated in *Hope Natural Gas* that:

> It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unreasonable, judicial inquiry . . . is at an end. The fact that the method employed to reach that result may contain infirmities is not then important.[43]

54 Our overarching concern, then, is with the end results produced under the settlement. At this level, we focus on three key points: (1) revenue requirement; (2) overall return; and (3) rate spread and rate design. PacifiCorp, using the so-called original Protocol methodology, originally requested an increase in revenue requirement of $26.7 million, or about 13.5 percent. PacifiCorp filed extensive direct testimony and numerous exhibits in support, all of which were received into the record. Staff, intervenors, and Public Counsel filed extensive response testimony and exhibits on July 2, 2004. Staff using a so-called Control Area methodology, proposed a revenue requirement increase of $7.1 million, or about 3.6 percent.

55 ICNU did not present a full revenue requirements case but, through its two witnesses, proposed adjustments to reduce PacifiCorp's requested increase in Washington revenues by approximately $10.8 million. Public Counsel also did

---

[43] *U S West v. Utils. and Transp. Comm'n,* 134 Wn.2d 48, 70, 949 P.2d 1321 (1997) (quoting *Federal Power Commission v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944)).

not present a full revenue requirements case, but proposed a rate decrease based in significant part on its proposed "hydro situs" allocation methodology.

56 PacifiCorp filed rebuttal testimony on July 28, 2004. In its rebuttal testimony, PacifiCorp included several updates, corrections, and adjustments, including acceptance of certain reductions to net power costs proposed by ICNU.[44] PacifiCorp revised its requested revenue requirement to $25.7 million. The proposed settlement provides for an additional $10.2 million in adjustments. This results in a revenue requirement of $15.5 million, an increase of about 7.8 percent. The settlement thus provides for a compromise on revenue requirement that results in rates that are approximately 60 percent of what PacifiCorp originally requested. This is well within the range of what is supported by the evidence.

57 The $15.5 million revenue requirement expressly includes $3.5 million in overall return.[45] This represents a return of 8.39 percent. The return level is within the range of the two alternatives presented by the cost of capital witnesses, Messrs. Hill and Hadaway.[46] We find that this is a reasonable overall return for PacifiCorp to earn.

58 Rate spread and rate design are not disputed issues. The settling parties agreed to adopt the recommendations regarding rate spread and rate design set forth in the Joint Testimony of Mr. Lazar (Public Counsel's witness), Mr. Schoenbeck

---

[44] These are noted on Attachment B to the Settlement Agreement.

[45] The settling parties were unable to reach agreement on the individual items at issue in connection with the cost of capital. Public Counsel's arguments on brief that are based on an assumed capital structure and implied return on common equity component (*i.e.,* the methods Public Counsel argues may have been employed to reach the end result) simply are not relevant to our consideration of return under the circumstances present here.

[46] The Company, through Mr. Hadaway, proposed a rate of return of 8.743 percent overall. *Exh. No. 31 at 2:9.* Mr. Hill, on behalf of Staff and Public Counsel, recommended an overall rate of return of 7.72 percent. *Exh. No. 631 at 5:13-15*.

(ICNU's witness), and Ms. Steward (Staff's witness).[47] Exhibit No. 7 shows the rate effects assuming the adoption of the revenue requirement increase recommended in the Settlement Agreement, and following the rate spread and rate design recommendations made by these witnesses.

59 We turn next to an examination of the individual components of the Settlement Agreement under a three-part inquiry: (1) We ask whether any aspect of the proposal is contrary to law; (2) We ask whether any aspect of the proposal offends public policy; and (3) We ask if the evidence supports the proposed elements of the Settlement Agreement as a reasonable resolution of the issue(s) at hand.

60 We first turn briefly to the specific adjustments reflected in Attachments A and B to the Settlement Agreement. It is clear from Attachments A and B to the Settlement Agreement, and from various witnesses' testimony at the settlement hearing, that the settling parties were mindful of, and did take into account the adjustments proposed by all parties. Public Counsel argues, however, that we cannot accept the settling parties' representations about what individual adjustments represent.[48] ICNU argues that the Settlement Agreement does not fully account for adjustments proposed by ICNU's witnesses and should be rejected on that basis. ICNU summarizes its proposed adjustments at some length.[49]

61 As in the case of the settling parties' agreement to present the settlement using original protocol, the specific adjustments indicated in Attachments A and B are a means to an end.[50] ICNU developed through cross-examination and Public Counsel argues on brief that the settlement, in this sense, has a "black box"

---

[47] *Exh. No. 621.*
[48] *Public Counsel Brief at 14-18.*
[49] *ICNU Brief at 29-40.*
[50] *See, e.g., TR. 374:4-6, 386:14-20 (Schooley); 659:18-660:9 (Braden).*

character.[51] This implied criticism ignores the fact that all settlements have a so-called black box quality to one degree or another—they are by nature compromises of more extreme positions that are supported by evidence and advocacy.[52] In addition, as do many settlements presented to the Commission, the Settlement Agreement here includes a disclaimer that:

> By executing this Settlement Agreement, no party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed in arriving at the terms of this Settlement Agreement, not shall any Party be deemed to have agreed that any provision of this Settlement Agreement is appropriate for resolving issues in any other proceeding.

For these reasons, except to the extent they help us understand the compromise nature of the parties' agreement to an overall revenue requirement, and to give us insight into things the settling parties considered in arriving at their compromise, close scrutiny of the individual adjustments is not required.

62 Ratemaking is not an exact science. As our Supreme Court has observed: "[t]he economic judgments required in rate proceedings are often hopelessly complex and do not admit of a single correct result."[53] Thus, while Public Counsel and ICNU would have us make different adjustments, or assign different values to certain of the adjustments made in the Settlement Agreement, we are confident in our judgment, made on the basis of the record before us, that the overall result in terms of revenue requirement is reasonable and well supported by the evidence.

---

[51] *Id.; Public Counsel Brief at 5, ¶8; 9, ¶16; 18, ¶32.*

[52] Public Counsel and ICNU have been parties to many settlements presented to, and approved by, the Commission, including settlements that lack even the level of analytical detail present here.

[53] Footnote 43, *supra.,* 134 Wn.2d at 70.

63 In two instances, however, the settling parties ask us to expressly resolve underlying issues and to go beyond simply approving a level of costs to be included in rates. We refer here to the Settlement Agreement's provision concerning Trail Mountain and Environmental Remediation. With respect to these items, the Settlement Agreement proposes deferral accounting treatment without, in our judgment, providing adequate support for such treatment. The questions of the proper accounting treatment for these costs are currently before us in separate, unconsolidated dockets.[54] Those proceedings provide an opportunity to air fully all questions that relate to proper accounting treatment and will set the stage for consideration of whether and how any deferred costs might be recovered in rates.[55] Thus, in this Order, we preclude neither the requested accounting treatment nor the future recovery of these costs. We defer those decisions to the pending dockets and, if necessary, to a future rate proceeding.

64 In this proceeding, because we decline the treatment of Trail Mountain and environmental remediation costs proposed in ¶12.b. and ¶12.c. of the Settlement Agreement, we also require removal of the associated costs from the revenue requirement proposed by the settling parties. Thus, we will approve a revenue requirement of $15,057,000 instead of the $15.5 million proposed under the Settlement Agreement.[56]

---

[54] PacifiCorp's petition for an accounting order concerning Trail Mountain is pending in Docket No. UE-031657, filed on October 13, 2003. PacifiCorp's petition for an accounting order concerning environmental remediation costs is pending in Docket No. UE- 031658, also filed on October 13, 2003.

[55] We note in this regard our concern over the settling parties' proposal that we approve deferred accounting treatment for Trail Mountain on a retroactive basis to April 1, 2001, some two and one-half years before PacifiCorp sought such treatment in Washington. Public Counsel and ICNU argue against such treatment in their briefs. Again, the matter is not sufficiently developed on the present record for us to make a decision, but we expect it to be fully developed in Docket No. UE-031657.

[56] *Exh. No. 4, pp. 7 (adjustment 5.3), 9 (adjustment 8.1).*

65 For the reasons discussed above, we are satisfied that the end results produced under the Settlement Agreement, modified as required by removal of certain costs, represent a reasonable compromise of the issues, are well supported by the evidence, and provide for rates that are fair, just, reasonable and sufficient.

4. Decoupling

66 NRDC states its "central proposition, which no other party has yet contested" is that "Washington's regulatory status quo unintentionally undercuts the crucial energy-efficiency element of least cost planning, and the . . .Commission urgently needs to begin fixing the problem."[57] NRDC argues that the Commission should find, consistent with ¶13 of the Settlement Agreement, that it is in the public interest to investigate a true-up mechanism designed to eliminate financial disincentives associated with the Company's demand-side initiatives.

67 PacifiCorp states that it is interested in implementing a decoupling mechanism, but did not develop a specific mechanism for purposes of this proceeding.[58] PacifiCorp describes the settlement as recommending that the "Commission's order in this proceeding address the issue of whether it is in the public interest to investigate . . . a true-up mechanism."[59] PacifiCorp describes what it has in mind as "a simple system of periodic true-ups in electric rates, designed to correct for disparities between utilities' actual fixed cost recoveries and the revenue requirement approved by the Commission."[60]

68 ICNU argues that there are no disincentives regarding demand-side management in Washington and that adopting the settlement proposal would

---

[57] *NRDC Brief at 1.*
[58] *PacifiCorp Brief at 53-54, ¶119.*
[59] *Id.*
[60] *Id. (citing Exh. No. 21 at 7:1-3 (Johansen)).*

initiate an "expensive and unnecessary proceeding."[61] ICNU focuses on the fact that PacifiCorp has a system benefit charge (SBC) in Washington through which the Company recovers its prudently incurred demand side management (DSM) costs. ICNU states that PacifiCorp's DSM investments increased following approval of the SBC from $2.8 million in 2001, to $6.5 million in 2002, and argues that "[t]here is no evidence that PacifiCorp has failed to make DSM investments due to any alleged financial disincentives."[62]

69 It is not necessary, in our view, to make a public interest "finding" before initiating a proceeding. Rather, the purpose of most proceedings is to determine the public interest with respect to the subject of the proceeding. We do think, however, based on the record in this proceeding, that it would be beneficial for the parties, and others who may be interested, to informally investigate whether, and to what degree, there are financial disincentives to PacifiCorp investing in DSM at appropriate levels and, if so, to develop a proposal for reducing or eliminating any such disincentives. Accordingly, we would expect the Company to initiate discussions, as provided in the Settlement Agreement. After such discussion, PacifiCorp may propose a true-up mechanism, or some other approach to reducing or eliminating any financial disincentives to DSM investment. This could be in connection with a general rate proceeding such as the Company suggests will be filed sometime in 2005, or in another proceeding at whatever time is appropriate.

FINDINGS OF FACT

70 Having discussed above all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary findings of fact. Those portions of the preceding discussion that

---

[61] *ICNU Brief at 41.*

[62] *Id., ¶75 (citing TR. 232:11-233:7 (Furman)).*

include findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.

71 (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 electric companies.

72 (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 may be 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.

73 (3) The rates proposed by tariff revisions filed by PacifiCorp on December 16, 2003, and suspended by prior Commission order, are not just, fair, or reasonable and should be rejected. *RCW 80.28.010.*

74 (4) PacifiCorp's existing rates for electric service provided in Washington State are insufficient to yield reasonable compensation for the service rendered. *RCW 80.28.010; RCW 80.28.020.*

75 (5) PacifiCorp requires relief with respect to the rates it charges for electric service provided in Washington State. *RCW 80.01.040; RCW 80.28.060.*

76 (6) The Commission must determine the fair, just, reasonable, and sufficient rates to be observed and in force under PacifiCorp's tariffs that govern its rates, terms, and conditions of service for providing electricity to customers in Washington State. *RCW 80.28.020*.

77 (7) The Commission's demurral of the requests in ¶¶ 12.b. and 12.c. of the Settlement Agreement and removal of the costs attributable to the issues addressed in those paragraphs from the proposed revenue deficiency of $15.5 million, results in a revenue deficiency of $15,057,000.

78 (8) The multi-party Settlement Agreement filed by PacifiCorp, Staff, and NRDC on August 27, 2004, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, considered as a whole, and in its individual parts as discussed and conditioned in the body of this Order, is in the public interest.

79 (9) The rates, terms, and conditions of service that result from this Order, based on a revenue deficiency of $15,057,000, are fair, just, reasonable, and sufficient. *RCW 80.28.010; RCW 80.28.020.*

80 (10) The rates, terms, and conditions of service that result from this Order are neither unduly preferential nor discriminatory. *RCW 80.28.020.*

CONCLUSIONS OF LAW

81 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.

82 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings. *Title 80 RCW.*

83 (2) The rates proposed by tariff revisions filed by PacifiCorp, on December 16, 2003, and suspended by prior Commission order, are not just, fair, or reasonable and should be rejected. *RCW 80.28.010.*

84 (3) PacifiCorp's existing rates for electric service provided in Washington State are insufficient to yield reasonable compensation for the service rendered. *RCW 80.28.010; RCW 80.28.020.*

85 (4) PacifiCorp, requires relief with respect to the rates it charges for electric service provided in Washington State. *RCW 80.01.040; RCW 80.28.060.*

86 (5) The Commission must determine the fair, just, reasonable, and sufficient rates to be observed and in force under PacifiCorp's tariffs that govern its rates, terms, and conditions of service for providing electricity to customers in Washington State. *RCW 80.28.020*.

87 (6) The multi-party Settlement Agreement filed by PacifiCorp, Staff, and NRDC on August 27, 2004, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, considered as a whole, and in its individual parts as discussed and conditioned in the body of this Order, is in the public interest. The Commission should approve and adopt the Settlement Agreement as a reasonable resolution of the issues presented by its terms, subject to the condition that ¶¶ 12.b. and 12.c. of the Settlement Agreement are rejected and the costs attributable to the issues addressed in those paragraphs are removed from the proposed revenue deficiency of $15.5 million, resulting in a revenue deficiency of $15,057,000. *WAC 480-09-465; WAC 480-090-466.*

88 (7) The rates, terms, and conditions of service that result from this Order are fair, just, reasonable, and sufficient. *RCW 80.28.010; RCW 80.28.020.*

89 (8) The rates, terms, and conditions of service that result from this Order are neither unduly preferential nor discriminatory. *RCW 80.28.020.*

90 (9) The Commission's prior orders in this proceeding, and in any related proceedings discussed in the body of this Order, should be amended to the extent necessary, or rescinded to the extent required, to effectuate the provisions of this Order. *RCW 80.04.210; WAC 480-09-815*.

91 (10) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order. *WAC 480-09-340.*

92 (11) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order. *Title 80 RCW.*

ORDER

THE COMMISSION ORDERS THAT:

93 (1) The proposed tariff revisions PacifiCorp filed on December 16, 2003, which were suspended by prior Commission order, are rejected.

94 (2) The Settlement Stipulation filed by PacifiCorp, Staff, and NRDC on August 27, 2004, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, is approved and adopted as a full and final resolution of this general rate proceeding, subject to the clarifications, modifications, and conditions stated in the body of this Order, including adjustment of the revenue deficiency to the amount of $15,057,000.

95 (3) Our approval of the Settlement Agreement is conditioned by the following requirements:

(a) Immediately following commission orders in the pending proceedings concerning inter-jurisdictional cost allocation in Utah and Oregon—and no later than December 1, 2004—PacifiCorp will initiate discussions in Washington aimed at development of an agreed methodology for inter-jurisdictional cost allocation to be followed by PacifiCorp in this jurisdiction.

(b) On or before April 1, 2005, PacifiCorp will present a detailed status report to the Commission concerning inter-jurisdictional cost allocation, including recommendations for further proceedings in Washington.

(c) By October 31, 2005, PacifiCorp will file, either in a general rate proceeding, or in an independent proceeding, a proposal to resolve inter-jurisdictional cost allocation in Washington.

96 (4) PacifiCorp is authorized and required to file tariff sheets following the effective date of this Order that are necessary and sufficient to effectuate its terms. The required tariff sheets must be filed by November 5, 2004, and shall bear an effective date of November 16, 2004.

97 (5) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.

98 (6) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective this ____ day of October 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. 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.