

**BEFORE THE**

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	<b>Docket No. UE-061546</b>
	)	
v.	)	<b>Docket No. UE-060817</b>
	)	
PACIFICORP D/B/A PACIFIC POWER &	)	<i>(consolidated)</i>
LIGHT COMPANY,	)	
	)	
Respondent.	)	
<hr/>	)	
In the Matter of the Petition of	)	
	)	
PACIFIC POWER & LIGHT COMPANY	)	
	)	
For an Accounting Order Approving Deferral	)	
of Certain Costs Related to the MidAmerican	)	
Energy Holdings Company Transition.	)	
<hr/>	)	

**REPLY BRIEF OF**

**THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES**

**May 7, 2007**

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## I. INTRODUCTION

1           The Industrial Customers of Northwest Utilities (“ICNU”) submits this Reply Brief responding to the Briefs of Staff and PacifiCorp. Staff and PacifiCorp have failed to make the case that the Washington Utilities and Transportation Commission (“WUTC” or the “Commission”) should: 1) allow PacifiCorp to increase its rates; 2) adopt the Company’s proposed cost allocation methodology without significant modification; 3) approve a power cost adjustment mechanism (“PCAM”) that does not fairly allocate costs or is not free from manipulation; or 4) charge ratepayers for the costs that were caused by Mid-American Energy Holdings Company’s decision to acquire PacifiCorp.

2           Staff’s Brief appears premised upon the belief that ICNU and Public Counsel should have supported the settlement that Staff and the Company entered into in January 2007. The Staff Brief is more personal than technical in nature, making arguments such as “it is difficult to give [ICNU and Public Counsel’s] presentation much credence,”<sup>1/</sup> and that ICNU and Public Counsel’s revisions to the West Control Area (“WCA”) cost allocation methodology are “draconian” and are proposed “in an effort to garner a significant rate decrease.”<sup>2/</sup> Staff summarizes its disdain by opining that “Public Counsel’s analysis is meaningless”<sup>3/</sup> and that Mr. Falkenberg’s position is based on “invective.”<sup>4/</sup> Staff also attempts to punish customers by proposing certain

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<sup>1/</sup> Staff Brief at 1.

<sup>2/</sup> Id. at 4.

<sup>3/</sup> Id. at 18.

<sup>4/</sup> Id. at 9.

unprecedented “adjustments” that increase the Company’s revenue requirement,<sup>5/</sup> and ignoring certain costs and benefits that could help ratepayers.<sup>6/</sup> ICNU is confident that the Commission will ignore these *ad hominem* attacks and focus on the facts of this proceeding, which demonstrate that PacifiCorp is not entitled to a rate increase.

3 Staff and PacifiCorp also appear to misunderstand ICNU positions. The record should be set straight:

- ICNU is not proposing that the Commission should reject the West Control Area (“WCA”) methodology.<sup>7/</sup> ICNU supports adoption of the WCA as a cost allocation methodology, provided that some basic adjustments are made to provide Washington customers with: 1) the value the western resources provide to the eastern states; and 2) compensation for the Wyoming resources that have been included in Washington rates for over thirty years.
- Contrary to Staff’s assertion,<sup>8/</sup> ICNU’s position is not “just say no” to a PCAM for PacifiCorp. PacifiCorp and Staff’s PCAM is a dangerous and easily manipulated proposal that would compare “baseline” normalized power costs under the untried WCA cost allocation methodology with “pseudo actual costs.” Even if the Commission is inclined to adopt a pseudo actual PCAM based on the WCA, then the Commission should determine if the WCA cost allocation methodology is successful before experimenting with pseudo actual costs. ICNU also has proposed a workable, hydro-only PCAM that focuses on the short-term costs that are truly beyond the Company’s control.

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<sup>5/</sup> Exh. No. 321 at 10-11 (Schooley Direct).

<sup>6/</sup> E.g., Exh. No. 261 at 17: 16-22 (Buckley Direct); Exh. No. 265 at 12: 3-6, 13: 10 – 14: 5 (Buckley Cross Answering).

<sup>7/</sup> PacifiCorp Brief at 5; Staff Brief at 4. PacifiCorp does not cite any testimony, and Staff cites Mr. Falkenberg’s testimony at page 15: 30-34 for the claim that ICNU recommends that the Commission reject the WCA in its entirety. This cited testimony states that the Commission could reject PacifiCorp’s filed WCA method. Mr. Falkenberg’s testimony then proceeds to provide detailed testimony regarding how the Commission should modify the WCA. Exh. No. 161 at 16-28 (Falkenberg Direct).

<sup>8/</sup> Staff Brief at 32. Staff cites Mr. Falkenberg’s testimony at pages 64-69 for its belief that ICNU’s position is that “PacifiCorp cannot have a PCAM.” Staff Brief at 18. This testimony does not argue that PacifiCorp cannot have a PCAM, but critiques PacifiCorp’s arguments in favor of its proposed PCAM. Exh. No. 161 at 64-69 (Falkenberg Direct). Immediately thereafter, Mr. Falkenberg’s testimony proposes an alternative hydro-only PCAM that would be appropriate for PacifiCorp. Id. at 69-72.

## II. ARGUMENT

### 1. The Commission Should Make Reasonable Revisions to the WCA to Fairly Compensate Washington Ratepayers

4 Staff and PacifiCorp strenuously argue that the Wyoming resources (Dave Johnson and Wyodak) should not be included in Washington rates.<sup>9/</sup> Staff admits that these resources were part of the Pacific Power & Light Company (“PP&L”) system, but that they should be removed from Washington rates even though they “were once included in Washington’s rate base . . . .”<sup>10/</sup> Staff refers to these resources as being included in rates in the past; however, these resources not only have always been included in rates, but are currently included in Washington rates.<sup>11/</sup> ICNU and Public Counsel should not be required to prove that these long-standing resources are used and useful for Washington, but Staff and PacifiCorp should have a heavy burden to support a cost allocation methodology that excludes resources from rates that Washington ratepayers have been paying for since they were built.

5 PacifiCorp and Staff assert that these resources should be removed from rates because there are limited transmission connections between Wyoming and Washington.<sup>12/</sup> Staff’s position is contradictory, as it admits that energy from Dave Johnson and Wyodak are available to serve to Washington, but nevertheless argues against their inclusion in rates without providing any method to compensate Washington

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<sup>9/</sup> Staff Brief at 11-13; PacifiCorp Brief at 5-8.

<sup>10/</sup> Staff Brief at 11-12.

<sup>11/</sup> Exh. No. 161 at 23: 7-11 (Falkenberg Direct).

<sup>12/</sup> PacifiCorp Brief at 7-8; Staff Brief at 12-13.

for their value.<sup>13/</sup> It is unclear why customers should be compensated for the sale of Centralia,<sup>14/</sup> but not for the removal of Dave Johnson and Wyodak. Staff claims that these resources are not needed for Washington,<sup>15/</sup> implicitly arguing that Washington should instead be served with new, higher cost resources and contracts. Similarly, Staff's argument that these resources are "now" needed to serve Wyoming loads<sup>16/</sup> ignores the vested interests Washington ratepayers have in these resources.

6                   Although the Company did not include the information in the record, PacifiCorp cites to Mr. Falkenberg's testimony in PacifiCorp's last rate case regarding the limited interconnections between Wyoming and Washington as support for the Company's proposal to remove all the costs and benefits of Dave Johnson and Wyodak from Washington rates.<sup>17/</sup> Mr. Falkenberg's testimony in the 2005 rate case is not inconsistent with his position in this case. Mr. Falkenberg's \$3.8 million adjustment to account for the benefits of the Wyoming resources is based on the actual, limited interconnections between Wyoming and Washington.<sup>18/</sup> The average amount of power that Mr. Falkenberg testified could be transmitted in the 2005 rate case is similar to the amount of power upon which Mr. Falkenberg's actual transmission path Wyoming adjustment in this case is based.<sup>19/</sup> As demonstrated by Mr. Falkenberg's testimony in 2005 and in this rate case, there are limited transmission connections between

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<sup>13/</sup> Staff Brief at 12.

<sup>14/</sup> Re Avista Corp., Docket Nos. UE-991255, UE-991262, and UE-991409, Second Supp. Order (Mar. 6, 2000).

<sup>15/</sup> Staff Brief at 12.

<sup>16/</sup> Id. This claim by Staff is not supported by the evidence in the record. For support for this claim Staff cites Exh. No. 88 at 26: 16-23 (Widmer Rebuttal), which address a different issue.

<sup>17/</sup> PacifiCorp Brief at 7.

<sup>18/</sup> Exh. No. 161 at 24: 8-17 (Falkenberg Direct).

<sup>19/</sup> Id. at 2: 17-23, 24: 8-17.

Washington and Wyoming, and PacifiCorp's assertion that the power from these resources "simply cannot be transmitted"<sup>20/</sup> is not true.<sup>21/</sup> Further evidence that Mr. Falkenberg's positions are consistent is that, in the 2005 rate case, Mr. Falkenberg proposed a cost allocation revision based on the former PP&L system that allocated the costs and benefits of these Wyoming resources to Washington ratepayers.<sup>22/</sup>

7                   Staff and PacifiCorp also critique Mr. Falkenberg's analysis that shows that the WCA causes the western control area to have variable power costs much higher than the eastern control area.<sup>23/</sup> These arguments miss the point of Mr. Falkenberg's testimony, which was that the west's variable costs should be lower since it relies on the lowest cost gas and hydro, and inexpensive coal.<sup>24/</sup> More importantly, Staff and PacifiCorp's argument that the west is only a little, not a lot, more expensive than the east is a distraction from the real argument that an appropriate cost allocation methodology should result in the west being less, not more, expensive than the east.<sup>25/</sup> Finally, any Staff assertions regarding power cost comparisons should be considered in light of the fact that "Staff did not analyze average power costs for the Eastern control area."<sup>26/</sup>

8                   Finally, PacifiCorp argues that it was appropriate for the Company to exclude 5% of Jim Bridger's capacity from the WCA methodology.<sup>27/</sup> PacifiCorp claims

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<sup>20/</sup> PacifiCorp Brief at 7.

<sup>21/</sup> Exh. No. 161 at 23: 7-11 (Falkenberg Direct).

<sup>22/</sup> WUTC v. PacifiCorp, Docket Nos. UE-050684 and UE-050412, Direct Testimony of Randall Falkenberg at 2-3, 40-42 (Nov. 3, 2005).

<sup>23/</sup> PacifiCorp Brief at 6; Staff Brief at 10-11.

<sup>24/</sup> Exh. No. 161 at 11-12 (Falkenberg Direct).

<sup>25/</sup> Id.

<sup>26/</sup> Exh. No. 270 (Staff Response to ICNU data request number 2.6).

<sup>27/</sup> PacifiCorp Brief at 8.



that its proposal is based on the amount of energy that is transferred to the west.<sup>28/</sup> This is not reasonable because Jim Bridger may be making these sales “simply to provide generation to that market when prices make such a transaction favorable.”<sup>29/</sup> This is another example of the WCA methodology failing to allocate to Washington the value of profitable sales that a western resource can make in the east.<sup>30/</sup>

## 2. The Commission Should Reject Staff and PacifiCorp’s Flawed PCAM

9 Staff and PacifiCorp’s proposed PCAM suffers from numerous flaws, and the Commission should reject and reconsider it after Washington has experience working with an approved cost allocation methodology. PacifiCorp admits that the WCA is “relatively untested, and there is some uncertainty about its impact and the financial results that it will produce.”<sup>31/</sup> PacifiCorp’s claim that the impacts of the “potential risk-reducing aspects of a PCAM” are best addressed in “a rate case filed during or after the five-year evaluation period”<sup>32/</sup> supports ICNU’s position that the Commission should ensure that the WCA cost allocation methodology works properly before implementing a PCAM.

10 ICNU proposes that, if the Commission wishes to allow PacifiCorp a PCAM, then it should adopt ICNU’s hydro-only PCAM and a corresponding reduction to PacifiCorp’s return on equity. PacifiCorp, in contrast, only supports a PCAM if it benefits the Company over customers. PacifiCorp wants to reserve “the right to decline to implement a PCAM if the Commission adopts” a water year adjustment and a cost of

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<sup>28/</sup>

Id.

<sup>29/</sup>

Exh. No. 161 at 21: 2-3 (Falkenberg Direct).

<sup>30/</sup>

Id. at 21: 4-5.

<sup>31/</sup>

PacifiCorp Brief at 26.

<sup>32/</sup>

Id.

capital adjustment to compensate ratepayers for the risk that is shifted from shareholders.<sup>33/</sup> PacifiCorp, however, does not propose to provide ratepayers with a similar “option” if the Commission approves a PCAM that is too favorable to the Company. PacifiCorp’s suggestion that it can accept or reject the Commission’s order demonstrates that the Company is not interested in a PCAM that fairly allocates costs and risks, but instead wants to expeditiously shift cost increases to customers outside of a rate case and insulate shareholders from the normal business risks of managing the Company.

11                   Staff’s Brief implies that ICNU is attempting to manipulate the Commission’s order in the last PacifiCorp general rate case by arguing that “only by inserting the word ‘actual’ into the words of a prior Commission order was ICNU able to manufacture an inconsistency with any prior Commission PCAM decision.”<sup>34/</sup> As Mr. Falkenberg’s cited testimony demonstrates, he quoted the exact text of the Commission’s order and did not insert any words.<sup>35/</sup> The Commission concluded that a PCAM should focus on “short-term costs,”<sup>36/</sup> and, although Staff may disagree with ICNU’s interpretation, ICNU is not “manufacturing an inconsistency” by reading this language to require that a PCAM be based on the Company’s real costs — not on fake numbers that will be used to simulate its actual costs.

12                   Both Staff and PacifiCorp argue that the issue of the “pseudo actual costs” has been “exaggerated,” and that pseudo actual costs are required because PacifiCorp is a

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<sup>33/</sup> Id. at 15.

<sup>34/</sup> Staff Brief at 31-32 citing Exh. No. 161 at 56: 11-21 (Falkenberg Direct).

<sup>35/</sup> Exh. No. 161 at 56: 9-18 (Falkenberg Direct).

<sup>36/</sup> WUTC v. PacifiCorp, Docket Nos. UE-050684 and UE-050412, Order No. 4 at ¶ 99 (Apr. 17, 2006).

multi-state utility.<sup>37/</sup> Staff, in its mistaken belief that ICNU is opposed to any PCAM, ignores that ICNU’s proposed hydro-only PCAM avoids most of the problems associated with using pseudo actual results. ICNU’s proposal only addresses Washington’s “share of the variances due to hydro costs . . . [and] it sidesteps the jurisdictional allocation problems and deals only with normalized costs, rather than hypothetical actual costs.”<sup>38/</sup> In addition, ICNU’s proposal is less capable of manipulation because it is “far more tractable to analyze the impact of a change in cost due to hydro” than estimating overall western control area costs.<sup>39/</sup>

### **3. PacifiCorp Has Dramatically Overstated Its Revenue Requirement Request**

#### **a. The Commission Should Reduce PacifiCorp’s Pension Expense**

13 Staff and PacifiCorp argue that the Commission should not adopt ICNU’s pension expense adjustment because they claim it is based on “speculation, rather than known and measurable changes.”<sup>40/</sup> Staff even asserts that adoption of ICNU’s pension proposal could be used to increase costs in the future and that “[r]atepayers deserve better.”<sup>41/</sup> PacifiCorp also criticizes Ms. Iverson’s qualifications and the details of her pension adjustment.<sup>42/</sup>

14 Ratepayers do not deserve to pay for costs that all parties in this proceeding know will not be representative of future conditions. Neither Staff nor PacifiCorp submitted any testimony contradicting the evidence that PacifiCorp is making

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<sup>37/</sup> Staff Brief at 31; PacifiCorp Brief at 13-14.

<sup>38/</sup> Exh. No. 161 at 71 : 3-6 (Falkenberg Direct).

<sup>39/</sup> Id. at 71 : 7-12.

<sup>40/</sup> Staff Brief at 36-37; PacifiCorp Brief at 53-54.

<sup>41/</sup> Staff Brief at 37.

<sup>42/</sup> PacifiCorp Brief at 53-54.

changes to its defined pension plan or that the changes are being made to reduce costs.<sup>43/</sup> Thus, the change in the pension plan is not “speculation,” but un-refuted fact. Instead of critiquing ICNU’s proposed pension adjustment, Staff and PacifiCorp should have put forth evidence regarding what they believed the Company’s actual pension expense would be. The Commission should adopt Ms. Iverson’s pension adjustment because it is a more accurate estimate than the evidence put forth by the Company.

**b. The Sacramento Municipal Utility District (“SMUD”) Contract Is Imprudent**

15 Staff and PacifiCorp argue against completely removing the SMUD contract from Washington rates and instead propose to impute the SMUD contract’s below-market \$16.85 per MWh price with a \$37 per MWh price based on a 20-year contract with Southern California Edison (“SCE”).<sup>44/</sup> Staff asserts that there is “no proof” that the SMUD contract is imprudent.<sup>45/</sup> Staff is wrong because the SMUD contract is below the contemporaneous price of power, does not include any price escalations, and PacifiCorp entered into this contract in order to receive an upfront payment of \$94 million from SMUD that the Company “retained and was not used to benefit ratepayers.”<sup>46/</sup>

16 The real issue is not whether the SMUD contract was imprudent, as there would be no reason for PacifiCorp and Staff to propose to impute revenues from the SCE contract if they did not implicitly recognize that the SMUD contract was imprudent. The

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<sup>43/</sup> Exh. No. 121 at 9-10 (Wilson Rebuttal); Exh. No. 328 at 8 (Schooley Cross Answering).

<sup>44/</sup> Staff Brief at 41-42; PacifiCorp Brief at 35-36; Exh. No. 88 at 31: 1 – 33: 2 (Widmer Rebuttal).

<sup>45/</sup> Staff Brief at 41-42.

<sup>46/</sup> See Exh. No. 161 at 33-36 (Falkenberg Direct); Re PacifiCorp, Utah Public Service Commission Docket No. 01-035-01, Report and Order at 24-25 (Sept. 10, 2005).

question is whether the contract should be completely removed from rates or if revenues should be imputed based on the SCE contract. The Commission should disallow all of the costs of the SMUD contract because Staff and PacifiCorp have not established that the price contained in the 20-year SCE contract is a reasonable substitute for the much longer-term 30-year SMUD contract. The SCE contract terminated in September 2006; thus, even if the SCE contract was a reasonable benchmark, then the SMUD contract should be removed because this alleged benchmark contract has expired.

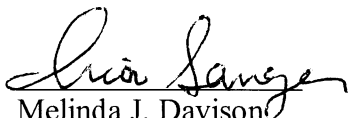
### III. CONCLUSION

17 For the reasons explained in this Reply and ICNU's Initial Brief, PacifiCorp has not carried its burden of proof to demonstrate that it is entitled to a rate increase. The Commission should adopt the WCA cost allocation methodology with ICNU's proposed revisions, reject PacifiCorp's proposed PCAM, and reduce PacifiCorp's overall rates.

Dated this 7th day of May, 2007.

Respectfully submitted,

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