

BEFORE THE WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP D/B/A PACIFIC POWER & LIGHT COMPANY,

Respondent.

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CROSS-ANSWERING TESTIMONY OF JAMES R. DITTMER (JRD-5T)

REGARDING EXPEDITED RATE FILING CONDITIONS

ON BEHALF OF PUBLIC COUNSEL

AUGUST 2, 2013

CROSS-ANSWERING TESTIMONY OF JAMES R. DITTMER (JRD-5T)  
DOCKET UE-130043

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**I. INTRODUCTION AND SUMMARY**

**Q: Please state your name and address.**

A: My name is James R. Dittmer. My business address is Post Office Box 481934, Kansas City, Missouri 64148.

**Q: Have you previously filed testimony within this docket?**

A: Yes. On June 21, 2013, I filed testimony within this docket on behalf of the Public Counsel Division of the Office of the Attorney General of the State of Washington (Public Counsel) addressing the propriety of developing rate base utilizing test year end values for major components so long as corollary “annualizing” income statement adjustments reflecting test year end events and conditions are also adopted. Like my direct testimony filed within this docket, this cross-answering testimony is also being filed on behalf of Public Counsel.

**Q: Were your qualifications included within the direct testimony you filed within this docket?**

A: Yes.

**Q: What is the purpose of your testimony?**

A: The purpose of this cross-answering testimony is to respond to the Expedited Rate Filing (“ERF”) proposal being advocated by Ms. Deborah Reynolds on behalf of Commission Staff. I recommend certain refinements and conditions that I believe would build on and improve Staff’s proposal for a future ERF process for PacifiCorp.

1 **Q: Please summarize the major conditions or refinements you are recommending**  
2 **be incorporated into the ERF proposal.**

3 A: While in general agreement with the ERF process and procedures described in Staff's  
4 direct testimony, I recommend the following modifications:

- 5 • PacifiCorp should be required to calculate and post *all restating*  
6 adjustments adopted by the WUTC in its last general rate case ("GRC")  
7 order prior to the ERF proceeding.
- 8 • PacifiCorp should be required to provide evidence that a reasonable  
9 effort has been undertaken to identify, quantify, and eliminate from the  
10 ERF test year cost of service material abnormal, non-operating and non-  
11 recurring transactions.
- 12 • Revenue relief to be granted through the ERF process should be limited  
13 to no more than three percent above existing base rates.
- 14 • Consistent with positions set forth within my direct testimony filed in  
15 this proceeding, PacifiCorp should be permitted to develop rate base  
16 utilizing end-of-ERF-test-year values for Plant in Service, Accumulated  
17 Depreciation and Accumulated Deferred Income Taxes.
- 18 • PacifiCorp should be permitted to file an ERF utilizing a non-calendar  
19 test year with no restriction as to the earliest date that such filing could  
20 be made.

21

- 1 • PacifiCorp should be permitted to file two ERFs before being required to  
2 make a GRC filing to further increase base rates. During the ERF  
3 proceeding(s) the Company would be prohibited from filing a general  
4 rate case.

5 **Q: What is Public Counsel’s position on expedited rate filings as a means to address**  
6 **regulatory lag and break the annual rate case cycle which has persisted for**  
7 **Washington utilities?**

8 Public Counsel is supportive of an ERF process when a utility applicant has  
9 convincingly demonstrated that events and conditions are significantly impacting the  
10 utility’s *opportunity* to earn its targeted authorized rate of return. The ERF process is  
11 designed to address Washington utilities’ previously enunciated concerns and  
12 criticisms regarding regulatory lag, earnings erosion or attrition, and near-annual  
13 general rate cases that are, in turn, straining resources, increasing rate case expense,  
14 and causing fatigue for the various rate case participants. Public Counsel supported  
15 an ERF concept in the recent Puget Sound Energy (“PSE”) ERF/Decoupling  
16 proceeding,<sup>1</sup> and we continue to believe that, with appropriate modifications, this is  
17 the most balanced tool to address demonstrated regulatory lag and continuous general  
18 rate case filings. The conditions and requirements I am suggesting are consistent with  
19 and build off similar recommendations I made in the PSE ERF proceeding and are  
20 intended to streamline and standardize the ERF process, while ensuring reasonable  
21 consumer protection in such “expedited” proceedings.

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<sup>1</sup> Puget Sound Energy Docket Nos. UE-121697, UG-121705, UE-130137 and UG-130138.

1 **II. SUMMARY OF STAFF'S ERF PROPOSAL**

2 **Q: Please briefly summarize your understanding of the ERF proposal set forth**  
3 **within Ms. Reynolds' direct testimony.**

4 A: I understand the major elements of Staff's ERF proposal to include the following:

- 5 • PacifiCorp should be allowed to undertake an ERF in 2014 within two  
6 months of filing its standard Commission-basis report ("CBR"). Since  
7 CBRs are filed on a calendar year basis, this necessarily implies the ERF  
8 "test year" will be calendar year 2013. Since there appears to be no  
9 restrictions as to how *early* such CBR could be filed, or any period of  
10 time that *must elapse* between the filing of the 2013 CBR and the time  
11 that the ERF could be made in 2014, presumably such ERF could be  
12 made just as quickly as PacifiCorp could develop and process such filing  
13 following the closing of its books and records for calendar year 2013.
- 14 • Once the ERF is filed, it will be reviewed on an expedited basis with the  
15 goal of rates becoming effective within 4-6 months.
- 16 • The CBR employed as the test year within the ERF must include:
  - 17 ○ Adjustments accepted by the Commission in the Company's  
18 most recent GRC or subsequent orders.
  - 19 ○ Adjustments to remove from revenues, expenses, and rate base  
20 any material distorting factors such as out-of-period, non-  
21 operating, non-recurring, and extraordinary items.

- 1                   ○ Adjustments to normalize sales units (i.e., billing determinants)  
2                   and reflect annualized tariff price changes granted by the  
3                   Commission during or subsequent to the ERF test year.
- 4                   ○ Cost allocations and allocation factors used to develop intrastate  
5                   operating results must be consistent with the Commission’s  
6                   determinations from its order addressing PacifiCorp’s most  
7                   recent GRC.
- 8                   ○ The rate of return, class revenue allocations and rate design  
9                   authorized by the Commission in PacifiCorp’s last GRC order.
- 10                  • The CBR is permitted to be “enhanced” to include adjustments to:
- 11                   ○ Annualize wages for compensation levels being incurred at ERF  
12                   test-year end.
- 13                   ○ Annualize the cost of new rate base additions.
- 14                   ○ Updating and dispatching power costs to reflect a full year  
15                   impact upon operations for a new or upgraded production plant  
16                   *and* reflecting latest available market prices for natural gas or  
17                   electricity (presumably purchased power).
- 18                  • Supporting testimony, schedules and workpapers should be submitted  
19                   with the ERF. However, the more detailed filing requirements of a  
20                   GRC that is requesting an increase in excess of three percent (3.00%),  
21                   as set forth within WAC 480-07-510, would be waived even if the ERF  
22                   request exceeds three percent (3.0%).
- 23



1 permitted to selectively choose which restating adjustments it might wish to post or  
2 ignore. While the need for, and propriety of, such requirement might appear obvious,  
3 I nonetheless submit that the requirement should be specifically stated.<sup>2</sup>

4 I note that this recommendation does not appear to be inconsistent with Staff's  
5 proposal. Specifically, one of Staff's ERF conditions states that the CBR underlying  
6 the ERF "must include the adjustments accepted by the Commission in a company's  
7 most recent general rate case or subsequent orders."<sup>3</sup> Inasmuch as the Commission's  
8 previous GRC order may adopt or authorize any number of "proforma" adjustments  
9 that could consider price changes implemented past the test year employed in that  
10 GRC, I believe it would be clarifying and instructive that the CBR should be limited  
11 to include only "restating" adjustments rather than any Commission adjustments that  
12 might include "proformas." Further, as previously noted, I believe there should be a  
13 specific requirement that the CBR include *all restating* adjustments most recently  
14 adopted by this Commission.

15 **Q. Could a negotiated general rate case settlement create concern or confusion in a**  
16 **subsequent ERF proceeding?**

17 A: Yes. In a "black box" settlement, or a settlement that was reached without  
18 delineating how the various parties or the Commission arrived at the agreed upon  
19 increase, there will not be a trail as to what "restating" adjustments were considered

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<sup>2</sup> As this Commission may recall from the first-ever ERF submitted by Puget Sound Energy ("PSE") earlier this year, PSE initially unilaterally made the decision to post some – but not all – restating adjustments that it determined to be material. In the end, while PSE's initial omission of certain restating adjustments in that proceeding may not have had a material impact in that particular ERF test year, a requirement to simply post *all* previously-adopted restating adjustments should eliminate concerns of any party "cherry picking" which restating adjustments are both appropriate and material

<sup>3</sup> Exhibit No. DJR-3, page 1.

1 in the settlement. Similarly, there may or may not be a stated cost of capital, and  
2 there may not be a trail as to which jurisdictional or class cost of service allocation  
3 factors or procedures were envisioned with the settlement. Accordingly, it is  
4 imperative that any negotiated settlement set forth at least minimum elements as to  
5 what cost of capital, what jurisdictional allocations, and what “restating” adjustments  
6 were assumed in arriving at the settlement increase. Without such findings set forth,  
7 it is difficult to envision how any number of controversies could be handled  
8 expeditiously or avoided within an ERF proceeding.

9 B. PacifiCorp Should be Required to Provide Evidence that a Reasonable Effort  
10 has been Undertaken to Identify, Quantify, and Eliminate From the ERF  
11 Test Year Cost of Service Material, Abnormal and Non-recurring  
12 Transactions.  
13

14 **Q: Please continue by discussing your second modification to Staff’s ERF proposal.**

15 A: My second recommendation is to require PacifiCorp to provide evidence that  
16 abnormal and non-recurring events have been eliminated from the ERF test year  
17 results of operations. This recommendation represents a filing requirement intended  
18 to streamline and assist in “expediting” the review process, rather than a true  
19 “modification” to Staff’s ERF proposal.

20 **Q: Are CBRs required to eliminate material abnormal and non-recurring events or**  
21 **items?**

22 A: Yes. As required by WAC 480-100-257 (1) (b), a Commission Basis Report, which  
23 is intended to become the underlying ratemaking vehicle in the ERF process, must  
24 include:

1 Results of operations adjusted for any material out-of-period,  
2 nonoperating, nonrecurring, and extraordinary items or any other item  
3 that materially distorts reporting period earnings and rate base.

4 Thus, any utility making a CBR filing is already expected to eliminate material  
5 “extraordinary” and “nonrecurring” events and transaction. Therefore, my  
6 second recommended ERF modification is simply a filing requirement that  
7 would have the utility applicant provide evidence demonstrating that it had  
8 undertaken a review, search or audit to identify and quantify for removal of any  
9 material out-of-period, non-operating, nonrecurring and extraordinary items  
10 when preparing its CBR. Since the identification and quantification tasks are  
11 already a CBR requirement, the filing requirement embodied in my second  
12 modification should represent a fairly modest effort on the utility’s part to simply  
13 provide documentation of the processes and exercises undertaken in such  
14 identification and quantification effort that would significantly assist in the Staff  
15 and intervenors’ ERF review efforts.

16 **C. Revenue Relief to be Granted Through the ERF Process Should be Limited**  
17 **to No More Than Three Percent Above Existing Rates**  
18

19 **Q: Please expand upon your third proposed modification or expansion of Staff’s**  
20 **ERF proposal?**

21 A: As noted within Ms. Reynolds’ testimony, Staff is supportive of an ERF procedure  
22 even if the request exceeds three percent– as evidenced by her recommendation that  
23 the more detailed filing requirements that are applicable to general rate case  
24 applications pursuant to WAC 480-07-510 should be waived with an ERF. In

1 contrast, I recommend that that the amount of rate relief to be granted through the  
2 ERF process to be limited to 3 percent.

3 **Q: Please state the reasons why an ERF should be limited to three percent.**

4 A: Very simply, the ERF process is a unique process with a design that specifically  
5 envisions a shorter and less thorough review process. It is intended to address  
6 regulatory lag, fairly continuous under earnings, as well as rising rate case costs and  
7 rate case fatigue that are a fall out of annual or nearly-annual full blown general rate  
8 case reviews. While there may be benefits of the ERF process to consumers as well  
9 as utility applicants, implementation of an ERF does nonetheless represent a  
10 concession from the consumers' perspective because the typical scrutiny afforded a  
11 general rate application is relaxed and diminished. In light of such a noted  
12 concession, I believe it is reasonable that the ERF process be limited to addressing  
13 less significant needs for rate relief, or more specifically, that the ERF process should  
14 limit the applicant's increases to no more than three percent of existing base rates.

15 Further, under the Commission rules, any increase over 3 percent constitutes a  
16 "general rate case."<sup>4</sup> An expedited rate proceeding, by its very nature, is intended to  
17 be a limited update of costs with an accelerated review period. If the ERF were to  
18 raise rates by 3 percent or more, by rule, it would constitute a general rate case which  
19 would require substantial additional evidence and a comprehensive review by the  
20 Commission of earnings, revenues and expenses, including a determination of rate of  
21 return, before increasing rates. These requirements are essential to the Commission's  
22 duty to regulate utilities in the public interest.

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<sup>4</sup> See WAC 480-07-505(1).

1           **D. PacifiCorp Should be Permitted to Develop Rate Base Utilizing End-of-ERF-**  
2           **Test-Year Values for Plant in Service, Accumulated Depreciation and**  
3           **Accumulated Deferred Income Taxes**  
4

5           **Q: Please expand upon your fourth ERF proposal that would permit PacifiCorp to**  
6           **develop rate base employing end-of-ERF-test-year values for the more**  
7           **significant rate base components?**

8           A: The rationale for developing rate base employing end-of-test-year values, along with  
9           reflecting corollary annualizing income statement adjustments, is set forth within my  
10          direct testimony filed in this docket, and accordingly, will be incorporated by  
11          reference herein. End-of-test-year rate base valuation in conjunction with corollary  
12          annualizing income statement adjustments do not constitute the more typical restating  
13          adjustments, and could arguably be construed to be more in the nature of a  
14          “proforma” adjustment. Therefore, I am recommending that such condition be  
15          specifically established as reasonable in future PacifiCorp ERF proceeding.

16          **Q: Staff’s ERF proposal includes one element that consists of “annualizing new rate**  
17          **base additions of the year by allowing a full year of depreciation costs.”<sup>5</sup> Is this**  
18          **Staff proposal consistent with your end-of-test-year rate base valuation and**  
19          **annualization of depreciation expense associated with end-of-test-year Plant in**  
20          **Service values?**

21          A: Staff’s proposal is not clear as to whether the annualization process is applicable to all  
22          new rate base additions in the test year or is intended to be restrictive to only a few –  
23          perhaps major – new plant additions. If the Staff’s intention is for PacifiCorp to  
24          annualize related costs associated with all plant additions occurring during the ERF

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<sup>5</sup> Exhibit No. DJR-3, Page 1, subpart (b) (i)

1 test year, presumably this would effectively be an endorsement of an end-of-test-year  
2 rate base valuation along with the annualization of depreciation expense associated  
3 with end-of-test-year Plant in Service values – similar if not identical to my  
4 proposals. In direct testimony, Staff has opposed end-of-test-year rate valuation in  
5 favor of average-of-monthly-averages rate base valuation, so it seems more likely that  
6 Staff is advocating with its ERF proposal to annualize the year end cost impact<sup>6</sup> of  
7 only certain new plant additions going into service during the test year. In any event,  
8 I continue to advocate development of rate base utilizing end-of-test-year valuation  
9 for all Plant in Service, Accumulated Depreciation Reserves and related Accumulated  
10 Deferred Income Tax Reserves. Valuation of *all* Plant in Service, rather than select  
11 test year plant additions, would avoid confusion and controversy in an ERF as to what  
12 new plant additions are eligible for annualization of costs and which test year plant  
13 additions should be valued utilizing average-of-monthly-averages.

14 **E. PacifiCorp Should be Permitted to Make an ERF Utilizing a Non-Calendar**  
15 **Test Year With No Restriction as to the Earliest Date that Such Filing Could**  
16 **be Made.**

17  
18 **Q: Please explain why you are recommending that PacifiCorp be permitted to**  
19 **undertake an ERF utilizing a non-calendar test year, and without restriction as**  
20 **to timing.**

21 **A:** Such conditions will provide PacifiCorp considerable latitude to time its ERF so as to  
22 minimize regulatory lag, and correspondingly, most efficiently address the potential  
23 for earnings erosions. While this could be viewed as a considerable “concession,” I

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<sup>6</sup> Rate base valuation based upon ERF test year end data and annualizing depreciation expense based upon ERF test year end Plant in Service values.

1           nonetheless believe it is reasonable so long as other conditions I am recommending  
2           be applied to the ERF are concurrently adopted. To address the Commission’s stated  
3           policy goal of breaking the recent pattern of almost continuous rate cases and to  
4           explore innovative ways to address a utility’s potential earnings erosion, Public  
5           Counsel is amenable to the relatively new conventions of 1) end-of-test-year rate base  
6           valuation, and 2) Expedited Rate Filings, combined with 3) allowing maximum  
7           flexibility to utilities in the selection of ERF test years to employ and the timing of  
8           ERFs. These concessions have been supported with the strict condition that rates  
9           continue to be established – whether in GRCs or ERFs – utilizing historic test years  
10          and actual-incurred and verifiable cost elements properly matched or synchronized  
11          with attendant revenue levels to a similar or identical point in time. As evidenced by  
12          my various recommendations, while continuing to recommend adherence to only  
13          considering historic costs in the rate setting process, I am correspondingly  
14          recommending processes and procedures that are designed to significantly shorten the  
15          time span between cost measurement in the ratemaking process and the effective date  
16          of new rates being developed in the various rate setting processes.

17           **F. PacifiCorp Should be Permitted to File Two ERFs Before Being Required to**  
18           **Make a GRC Filing to Further Increase Base Rates.**

19  
20   **Q: Please expand upon your final condition that PacifiCorp be permitted to file two**  
21   **ERFs, but that to further increase base rates beyond two ERFs, it should be**  
22   **required to undertake a GRC filing.**

23   **A:** First, I would note that Staff’s ERF proposal specifically envisions one ERF in 2014,  
24   but is silent as to whether additional ERFs would be permitted or prohibited after the

1 2014 ERF. I believe a limitation of up to two ERFs, without restrictions as to time  
2 intervals before the first or second ERF, is reasonable and addresses several noted  
3 concerns.

4 Staff's proposal envisions ERF rates to be effective within four to six months  
5 following the filing of testimony, exhibits and workpapers. The four month window  
6 suggested by Staff is aggressive. Intervenors, and even Staff, would need some  
7 period of weeks just to obtain or reassign resources to undertake even a limited  
8 review of the filing – which would encroach significantly into the four month window  
9 suggested by Staff from filing date to order date. Even with the conditions and  
10 restrictions being recommended herein, it appears to me that four months to process  
11 the ERF - with time for modest discovery and analysis, as well as an abbreviated  
12 hearing– is extremely short. However, even assuming the longer six month window  
13 for processing the docket suggested by Staff, permitting PacifiCorp to make two  
14 ERFs before requiring a GRC filing would enable PacifiCorp to avoid a GRC filing  
15 for at least one year, but in all likelihood, closer to two years. As such, allowing two  
16 ERFs before a GRC filing would be required is intended to address the concern of  
17 near-annual GRCs while also addressing a concern of regulatory lag.

18 **Q: Why do you believe it is reasonable to limit the number of ERFs to two before a**  
19 **GRC filing would be required?**

20 A: While the ERF process being recommended would result in limitations as to what the  
21 utility applicant could file or request, the process nonetheless will be abbreviated, or  
22 expedited, thus limiting Staff and Intervenors' ability to review the utility's practices,  
23 procedures and investment decisions more intensively such as occurs within GRC

1 application reviews. Thus, some limitation as to the number of ERFs to be filed  
2 before a more detailed GRC review is undertaken is reasonable

3 **Q: Does this conclude your testimony?**

4 A. Yes, it does.