

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE)
APPLICATION OF PACIFICORP FOR)
AUTHORITY TO PASS ON TO ITS) Docket No. 20000-EP-04-211
CUSTOMERS INCREASES IN ITS)
WHOLESALE PURCHASED POWER)
COSTS)

STIPULATION AND AGREEMENT

This Stipulation and Agreement (“Stipulation”) is entered into between PacifiCorp, AARP, Office of Consumer Advocate (“OCA”), and Wyoming Industrial Energy Customers (“WIEC”) collectively referred to as (“The Parties”).

I. RECITALS

1. On July 8, 2004 PacifiCorp filed an Application to recover net wholesale purchased power costs in the amount of \$11,830,973 annually. This amount was derived by taking the difference between net purchased power costs included in base rates in Docket No. 20000-ER-03-198 (2003 General Rate Case) and the normalized net purchased power costs that PacifiCorp incurred in a twelve month historic test year beginning April 1, 2003, and ending March 31, 2004.
2. OCA, AARP, and WIEC are all properly authorized parties to this proceeding.
3. The Commission, by its Order of July 19, 2004, and pursuant to W.S. § 37-3-106 suspended the proposed filing for a period of six (6) months.
4. PacifiCorp met with representatives of OCA and WIEC on August 2, 2004 in order to fully discuss the Application and all issues involved in this docket. At the

conclusion of that meeting, it was agreed that PacifiCorp, OCA, and WIEC would meet again, on August 23, 2004 to discuss a possible resolution of the issues in this docket.

5. Representatives of PacifiCorp, OCA, WIEC, and AARP met on August 23, 2004 to discuss the settlement of the issues addressed in the Application. Although a final resolution of these issues was not achieved at the meeting of August 23, 2004, this meeting led to further discussions between these parties that have resulted in the agreements and stipulation set forth herein.

II. AGREEMENTS REGARDING RESOLUTION OF ISSUES

6. The Parties hereby stipulate and agree that PacifiCorp should be allowed to establish a new rate rider designed to collect \$9,250,000 annually.

7. The Parties agree that the new rate rider will allow PacifiCorp a reasonable opportunity to recover its future net wholesale purchased power costs in excess of the level of net wholesale purchased power costs approved in Docket No. 20000-ER-03-198. The Parties further agree and acknowledge that this new rate rider is set at a level that reflects anticipated benefits to PacifiCorp's Wyoming customers from the Revised Protocol developed in the Multi-State Process (MSP), Docket No. 20000-EI-02-183. The parties agree that they will not seek further rate reductions or caps in the MSP proceedings now pending before the Commission.

8. The Parties agree to use their best efforts so that tariffs necessary to implement this \$9,250,000 annual increase in rates effective as of September 15, 2004. Further, if the effective date of the tariff is delayed beyond October 1, 2004, the Parties

agree that the rates should be designed to collect \$9,250,000 between the date the rates go into effect and October 1, 2005 and then reset on October 1, 2005 to collect \$9,250,000 annually thereafter (based on the same volume of sales used to set the original rider level as set forth in PacifiCorp's application in this docket). The parties further agree that the increase in rates should be borne in an equal percentage on a revenue basis by all rate schedules. The percentage increase applicable to each rate schedule's revenues is 2.68%. Further, the Parties agree that the rider shall be charged exclusively on the basis of kilowatt hours sold. The Parties agree that this rider shall remain in effect until the earlier of (a) new rates take effect in Wyoming as a result of a general rate case initiated by PacifiCorp, an authorized Complainant, or the Commission itself or (b) the implementation of a power cost adjustment mechanism and/or alternative form of regulation as discussed below.

9. PacifiCorp agrees that it will not seek to increase any rates in Wyoming at any time prior to September 30, 2005 except (a) to continue the process of moving to rate parity as discussed below, (b) as may authorized from the ultimate resolution of *PacifiCorp v. Hurless et al.*, Case No. 04-CV-0131J (U.S.D.C.-Wyo.) or *PacifiCorp v. Public Service Commission, et al.*, Wyo. Sup. Ct. No. 03-211, or (c) to implement changes within the irrigation class, which will have no effect on other classes, as contained in the recommendations included in PacifiCorp's June 24, 2004 Compliance Report Regarding Agricultural Pumping Service, Docket No. 20000-ER-03-198. PacifiCorp further agrees that after September 30, 2005, and prior to December 1, 2005, it will calculate, based on the most recent twelve-month period for which data is available, the total net power costs on a dollar per Megawatt hour of total net system

load basis. Dollars per Megawatt hour is calculated by dividing total NPC by net system load. If the total unadjusted net power costs then determined, exceed \$13.28 per Megawatt hour for the twelve-month period, PacifiCorp may elect to either file a request for Commission authority to establish a deferred account for such increases in total net power costs and seek recovery in a future general rate case or proceed with a general rate case. In either event, all Parties reserve all rights with respect to such filings.

10. PacifiCorp further agrees that it will file semi-annual earning reports with the Commission on February 1, 2005 (for the twelve month period ending September 30, 2004) and on August 1, 2005 (for the twelve month period ending March 31, 2005), and every six months thereafter that the rider approved in this docket remains in effect. Such reports shall reflect Wyoming allocated earnings with and without the \$9,250,000 rider on an unadjusted basis and will disclose total net power costs on an unadjusted per MWh basis. If, for any twelve month period, PacifiCorp is either (a) earning in excess of 10.75% on equity with the revenues from the rider included or (b) experiences total net power costs on a per MWh basis that are lower than the amount of revenue from the rider plus the level of net power costs approved in Docket No. 20000-ER-03-198 on a per MWh basis; then PacifiCorp shall refund to customers (over a six month period and with interest at PacifiCorp's applicable short term borrowing rate) such overearnings or lower net power cost deficiency up to the amount of revenue actually collected in that period from the \$9,250,000 rider.

11. The Parties further stipulate and agree that they will meet to work on developing an acceptable power cost adjustment mechanism. Further, given the

interrelationship between power costs and PacifiCorp's overall costs, an alternative form of regulation ("AFOR") pursuant to Wyoming Statute § 37-2-121 may also be discussed and developed in these meetings. The initial meeting to discuss the development of the agreed upon mechanism and AFOR shall take place prior to December 31, 2004 with subsequent meetings as needed at a mutually agreeable time and location to the parties to this Stipulation. If the Parties reach agreement, PacifiCorp may file an application at any time to seek implementation of a power cost adjustment mechanism and/or an AFOR at any time after December 1, 2005, or September 30, 2005 if PacifiCorp's net power costs exceed \$13.28 per MWh on a twelve month rolling average basis as discussed above. If the Parties do not reach agreement, PacifiCorp specifically reserves the right to file an application after December 1, 2005, or September 30, 2005 if PacifiCorp's net power costs exceed \$13.28 per MWh on a twelve month rolling average basis as discussed above, to seek implementation of a power cost adjustment mechanism and/or an AFOR. All Parties reserve all rights with respect to any such filings.

12. The Parties further acknowledge and agree that the Rate Parity Plan filings ordered in the 2002 General Rate Case (Docket No. 20000-ER-02-184), will be made on or before December 1, 2004 with rates to become effective on or about December 31, 2004. In addition, consistent with the terms of the Rate Parity Plan, a final Rate Parity Plan filing may be made on or before December 1, 2005 with rates to become effective on or about December 31, 2005.

13. While the \$9,250,000 rider is in effect, the Parties agree that if a PacifiCorp generation or transmission asset fails due to a catastrophic event beyond

PacifiCorp's control, PacifiCorp may seek a deferred accounting order to account for any increase in net power costs associated with acquiring electricity to replace lost capacity or energy. All parties reserve all rights with respect to such a filing for a deferred accounting order. Further, the Parties agree that PacifiCorp may seek to recover any such deferred costs provided (a) no recovery is sought until after PacifiCorp is permitted to file a general rate case pursuant to Paragraph 9 above and (b) the deferred costs exceed \$15 million on a Wyoming-allocated basis. All parties reserve all rights with respect to any such filing for recovery including but not limited to the right to challenge whether PacifiCorp was prudent and whether recovery of any deferred costs is just and reasonable.

III. GENERAL TERMS AND CONDITIONS

14. The Parties agree that this Agreement represents a compromise in their respective negotiations. As such, evidence of conduct or statements made in the negotiation and discussion phases of this Agreement shall not be admissible as evidence in any proceeding before the Commission or a court.

15. The Parties acknowledge that not every party agrees that § 249 of the Commission's Procedural Rules permits the specific relief requested by PacifiCorp in its application in this docket. However, the Parties agree that the Commission may approve and give effect to this Agreement without further public notice or opportunity for hearing. The Parties further agree that the positions and agreements of the parties set forth herein cannot be used to bind or estop any party from arguing any position in a

future docket before this Commission involving the appropriate scope and use of § 249 of the Commission's Procedural Rules.

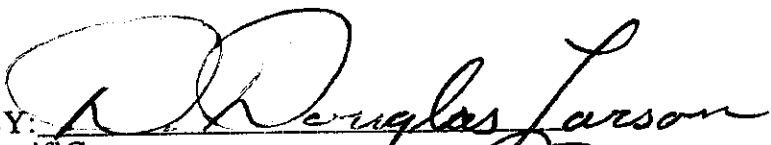
16. In the event the Commission materially changes this Agreement, or it is otherwise disapproved by any court of competent jurisdiction, then neither the Commission, nor any party to this Agreement shall be prejudiced by the terms of this Agreement and each party shall be entitled to file any application, testimony and tariffs it chooses, to cross-examine witnesses and, in general, to put on such case as it deems appropriate.

17. All negotiations relating to this Agreement are privileged and confidential, and no party shall be bound by any position asserted in the negotiations, except to the extent expressly stated in this Agreement. Execution of the Agreement shall not be deemed to constitute an acknowledgment by any party of the validity or invalidity of any particular method, theory or principle of regulation, and no party shall be deemed to have agreed that any principle, method or theory of regulation employed in arriving at this Agreement is appropriate for resolving any issue in any other proceeding.

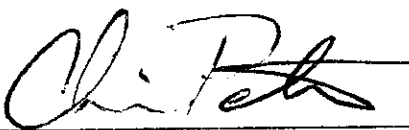
18. The Parties agree that this Stipulation is in the public interest and that all of its terms are reasonable.


19. The Parties shall advocate in good faith that the Commission approve this Stipulation in its entirety. They shall make attorneys or witnesses available to explain and support this Stipulation in whatever level of detail may be desired by the Commission.

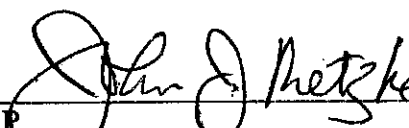
DATED this 3rd day of September, 2004.

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