

## BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION )  
 OF PACIFICORP FOR A RETAIL ) Docket No. 20000-ER-03-198  
 ELECTRIC UTILITY RATE INCREASE OF ) (Record No. 8310)  
 \$41.8 MILLION PER YEAR )

## APPEARANCES

For the Applicant, PacifiCorp (PacifiCorp):

PAUL J. HICKEY of Hickey & Mackey, Cheyenne, Wyoming; and  
 JAMES M. VAN NOSTRAND of Stoel Rives, LLP, Seattle, Washington.

For the Intervenor, Wyoming Industrial Energy Consumers (WIEC):

ROBERT M. POMEROY, JR., JAMES K. TARPEY, and THOR NELSON of Holland & Hart, Greenwood Village, Colorado; and WALTER F. EGGERS, III of Holland & Hart, Cheyenne, Wyoming.

For the individual Interveners, B.P., Inc., ChevronTexaco Exploration & Production Company, Church & Dwight Co., Inc., ConocoPhillips Company, Exxon Mobil Corporation, FMC Corporation, General Chemical Corporation, Howell Petroleum Corporation, Kennecott Energy Company, Marathon Oil Company, Monsanto Company, OCI Chemical Corporation, SF Phosphates Limited Company, Sinclair Petroleum, Inc., and Solvay Minerals, Inc (the Individual Industrial Users):

ROBERT M. POMEROY, JR., JAMES K. TARPEY, and THOR NELSON of Holland & Hart, Greenwood Village, Colorado; and WALTER F. EGGERS, III of Holland & Hart, Cheyenne, Wyoming.

For the Intervenor, the American Association of Retired Persons (AARP):

DALE W. COTTAM, Hirst & Applegate, Cheyenne, Wyoming.

For the Intervenor, Office of Consumer Advocate (Office of Consumer Advocate):

CHRISTOPHER PETRIE, Cheyenne, Wyoming.

For the Interveners, The Wyoming Retail Merchants Association, the Wyoming Lodging and Restaurant Association, and the Wyoming Hospital Association (the Associations):

STEVEN F. FREUDENTHAL, Freudenthal, Salzburg & Bonds, PC, Cheyenne, Wyoming.

For the Intervenor, City of Casper (Casper):

WILLIAM C. LUBEN, City Attorney, Casper, Wyoming.

For the Interveners, Canyon Creek Compression Company and Kinder Morgan Interstate Gas Transmission LLC, Kinder Morgan, Inc. (collectively, Kinder Morgan):

T. J. CARROLL, III, Lakewood, Colorado

For the Intervenor Utility Workers Union of America, Local 127 (UWUA):

HAROLD GIBERSON, Union President, Rock Springs, Wyoming

For the Intervenor Hot Springs County Small Irrigators (the Irrigator Group)  
KENT HESSENTHALER, Irrigator, Thermopolis, Wyoming.

For the Intervenor, Tri-State Generation and Transmission Association, Inc (Tri-State):  
ROBERT E. TEMMER and GLENDA J. LANIK, Denver, Colorado.

Members of the public appearing *pro se* and Intervenor witnesses  
appearing at the public comment hearings:

DOUGLAS J. PAVLICK, Green River, Wyoming, for the Intervenor, OCI Chemical Corporation, and on behalf of the soda ash industry generally.

JEANINE COX, Rock Springs, Wyoming, for the Young At Heart Senior Center.

DONNA BUDROW, Rock Springs, Wyoming.

GARY ELLINGFORD, Evanston, Wyoming.

HENRY HEWITT, Rawlins, Wyoming.

DAN SOUTH, Evanston, Wyoming.

Councilwoman RENEE BURGESS, Casper, Wyoming, for the Intervenor, City of Casper, Wyoming.

RICK BONANDER, Casper, Wyoming.

CHRIS HOLDEN, Casper, Wyoming.

BILL MILLER, Casper, Wyoming.

BILL MARSH, Torrington, Wyoming, for the Intervenor, AARP.

LEO CHERNICK, Casper, Wyoming.

CAROL LONG, Casper, Wyoming

MIKE MATTHEWS, Casper, Wyoming.

DAVE SHELLENBERGER, Casper, Wyoming, chief financial officer for Wold Oil Properties.

Representative TOM WALSH, Casper, Wyoming, through a letter concerning the proceedings.

## HEARD BEFORE

Chairman STEVE ELLENBECKER  
Deputy Chair KRISTIN H. LEE  
Commissioner STEVE FURTNEY

Chairman Ellenbecker presiding (Evanston, Cheyenne)  
Commissioner Lee presiding (Casper, Cheyenne)  
Commissioner Furtney presiding (Cheyenne)

ORDER  
(Issued February 28, 2004)

This matter is before the Wyoming Public Service Commission (Commission) on the application of PacifiCorp for authority to increase its retail electric utility service rates in Wyoming by \$41.8 million, for adjustments to its tariffs and for various other relief, on the interventions of the Office of Consumer Advocate, WIEC, the Individual Industrial Users, AARP, the Associations, Casper, Kinder Morgan, the UWUA, Tri-State and the Irrigator Group, and on the testimony of persons appearing *pro se* herein. The Commission, having heard the testimony and viewed the exhibits in this case, having reviewed the record thereof and its files concerning PacifiCorp, applicable Wyoming utility law, and being otherwise fully advised in the premises, HEREBY FINDS AND CONCLUDES:

## Procedural Matters

1. PacifiCorp filed the application herein on May 27, 2003, requesting authority to increase its retail electric utility rates to its customers by \$41.8 million per year or approximately 13.1% per year, based upon normalized results of operation for the twelve month test period ended September 30, 2002. In the application, PacifiCorp stated generally that the proposed increase was necessary for it to be able to access capital markets to obtain the funds necessary to maintain its utility infrastructure and to continue to provide safe, adequate and reliable service to its Wyoming customers.

2. PacifiCorp provides retail electric public utility service in Wyoming in two areas:

a. The "Wyoming East Service Territory" consists of portions of Albany, Big Horn, Carbon, Converse, Fremont, Hot Springs, Johnson, Natrona, Park, Platte, Sublette, Sweetwater, and Washakie Counties, including, among others, the cities of Buffalo, Casper, Cody, Douglas, Glenrock, Green River, Lander, Laramie, Lovell, Rawlins, Riverton, Rock Springs, Thermopolis, and Worland (Wyoming East).

b. The "Wyoming West Service Territory" consists of portions of Lincoln, Sublette and Uinta Counties, including, among others, the cities of Big Piney, Evanston, Kemmerer, and Pinedale (Wyoming West).

3. In its application, PacifiCorp proposed rate changes, which differed by

service class and by location in the Wyoming East and Wyoming West service areas, including proposed rates for customers of the same type of rate class but in different geographical areas which are part of the ongoing plan to achieve rate parity between the Wyoming East and Wyoming West service areas by December 31, 2005. PacifiCorp proposed a number of rate changes, some of the more important of which, with their approximate overall impact, are summarized below:

Customer Group	"Wyoming East"		"Wyoming West"	
	Class	Proposal	Class	Proposal
Residential	2	9.21%	201	5.65%
	3	11.10%	205	7.25%
General Service	25	15.21%	206	21.87%
Large General Service	33	12.89%	217	15.65%
	46	12.90%	218	15.62%
	48T	12.90%		
Irrigation	40	19.28%	210	-15.91%
Street lighting, outdoor lighting and traffic signal system rates in Wyoming East and Wyoming West were proposed to be raised an average of approximately 19.58%.				

4. With its Application, PacifiCorp filed the prepared direct testimony of Donald N. Furman, Samuel C. Hadaway, Bruce N. Williams, Mark T. Widmer, J. Ted Weston, Daniel J. Rosborough, Dawn T. Cartwright, David L. Taylor, and William R. Griffith, together with supporting exhibits, studies and other documentation for the case.

5. By its Order Authorizing Intervention of June 3, 2003, the Commission granted the Office of Consumer Advocate's motion to intervene, giving it party status in the proceeding.

6. On June 6, 2003, the Commission issued a Notice of Application in this case which provided for an intervention deadline of July 10, 2003. The Notice of Application was published once per week for two consecutive weeks in the *Cody Enterprise*, the *Douglas Budget*, the *Glenrock Independent*, the *Green River Star*, the *Lander Journal*, the *Lovell Chronicle*, the *Independent Record* in Thermopolis, the *Kemmerer Gazette*, the *Pinedale Roundup*, the *Uinta County Herald* in Evanston, the *Riverton Ranger*, the *Northern Wyoming Daily News* in Worland, the *Buffalo Bulletin*, the *Daily Times* in Rawlins, the *Casper Star-Tribune*, the *Daily Boomerang* in Laramie, and the *Daily Rocket-Miner* in Rock Springs. Notice of the Application was broadcast on radio five times per week for two consecutive weeks on KBBS in Buffalo, KRAL in Rawlins, KTWO in Casper, KRKK in Rock Springs, KTHE in Thermopolis, KWOR in Worland, KEVA in Evanston, KMER in Kemmerer, KKTY in Douglas, KODI in Cody, KOVE in Lander, and KUWR in Laramie.

7. On June 9, 2003, the Commission issued an order suspending the proposed rates in this case for investigation and further action for the initial six-month period provided in W.S. § 37-3-106(c) which commences after the 30-day notice term provided in subsection (b) thereof.

8. By its Order Authorizing Intervention of June 17, 2003, the Commission granted AARP's motion to intervene, giving it party status in the proceeding.

9. By its Order Authorizing Intervention of June 19, 2003, the Commission granted WIEC's motion to intervene, giving it party status in the proceeding.

10. On July 1, 2003, PacifiCorp filed its Proposed Procedural Schedule and Motion for Entry of Protective Order, seeking to establish procedures for the expeditious treatment of confidential information in this proceeding.

11. By its Order Authorizing Intervention of July 3, 2003, the Commission granted the motions of B.P., Inc., ChevronTexaco Exploration & Production Company, Church & Dwight Co., Inc., ConocoPhillips Company, Exxon Mobil Corporation, FMC Corporation, General Chemical Corporation, Howell Petroleum Corporation, Kennecott Energy Company, Marathon Oil Company, Monsanto Company, OCI Chemical Corporation, SF Phosphates Limited Company, Sinclair Petroleum, Inc., and Solvay Minerals, Inc., to intervene as individual intervenors, giving each of them individual party status in the proceeding.

12. By its Order Authorizing Intervention of July 11, 2003, the Commission granted the City of Casper's motion to intervene, giving it party status in the proceeding.

13. By its Order Authorizing Intervention of July 15, 2003, the Commission granted the motions of the Wyoming Retail Merchants Association, the Wyoming Lodging and Restaurant Association, and the Wyoming Hospital Association to intervene, giving them party status in the proceeding.

14. By its Orders Authorizing Intervention of July 17, 2003, the Commission granted the motions of the Kinder Morgan Interstate Gas Transmission LLC, Kinder Morgan, Inc., and Canyon Creek Compression Company to intervene, giving them party status in the proceeding.

15. By its Order Authorizing Intervention of July 22, 2003, the Commission granted the Utility Workers Union of America, Local 127's motion to intervene, giving it party status in the proceeding.

16. By its Order Authorizing Intervention of July 31, 2003, the Commission granted the Hot Springs County Small Irrigators' motion to intervene, giving it party status in the proceeding.

17. On August 6, 2003, the Commission issued its Order on Protection of Confidential Information and Other Procedural Issues whereby the Commission established the following procedural schedule for this case:

November 25, 2003	Intervenor testimony and exhibits filed and served
December 23, 2003	PacifiCorp Rebuttal testimony and exhibits filed and served

January 16, 2004	Public hearings begin, continuing on January 19, 2004, and thereafter as needed
February 13, 2004	Parties' Briefs filed

18. On November 12, 2003, the Commission issued its Notice of Public Hearing and Order Establishing Venue which provided that the hearing in this matter would begin at 9:00 a.m. on Friday, January 16, 2004, in the Commission's hearing room. Notice was published once per week for two consecutive weeks in the *Cody Enterprise*, the *Douglas Budget*, the *Glenrock Independent*, the *Green River Star*, the *Lander Journal*, the *Lovell Chronicle*, the *Independent Record* in Thermopolis, the *Kemmerer Gazette*, the *Pinedale Roundup*, the *Uinta County Herald* in Evanston, the *Riverton Ranger*, the *Northern Wyoming Daily News* in Worland, the *Buffalo Bulletin*, the *Daily Times* in Rawlins, the *Casper Star-Tribune*, the *Daily Boomerang* in Laramie, and the *Daily Rocket-Miner* in Rock Springs. Notice was broadcast on radio five times per week for two consecutive weeks on KBBS in Buffalo, KRAL in Rawlins, KTWO in Casper, KRAL in Rawlins, KRKK in Rock Springs, KTHE in Thermopolis, KWOR in Worland, KEVA in Evanston, KMER in Kemmerer, KKTY in Douglas, KODI in Cody, KOVE in Lander, and KUWR in Laramie.

19. On November 25, 2003, the Irrigator Group filed the direct testimony and exhibits of Kent Hessenthaler; WIEC filed the testimony and exhibits of Randall J. Falkenberg, Michael P. Gorman and David E. Peterson; the Office of Consumer Advocate filed the direct testimony and exhibits of Bryce J. Freeman, Denise K. Parrish, and Marci L. Norby; and AARP filed the direct testimony and exhibits of Ronald J. Binz.

20. On December 1, 2003, the Commission issued its second Suspension Order, suspending the proposed rates for investigation and the Commission's final order, for the final three-month term prescribed by W.S. § 37-3-106(c).

21. On December 11, 2003, PacifiCorp filed its Motion for Continuance of Commencement of Hearing From January 16, 2004 to January 20, 2004, arguing that the public hearing herein was set to commence on January 16, 2004, to allow PacifiCorp sufficient time to prepare for the case in this matter due to its general rate case in Utah which was scheduled to commence on January 26, 2004. PacifiCorp noted that a majority of the issues in the Utah case had been resolved, thereby eliminating or substantially reducing the time needed for that case. PacifiCorp asked that the hearing herein begin in the week of January 19, 2004, and stated that the other parties' goal of finishing the case by January 26, 2004, could still be achieved if the case began as it proposed.

22. On December 15, 2003, WIEC and the Office of Consumer Advocate filed a Joint Response to PacifiCorp's December 11 Motion arguing, *inter alia*, that WIEC and the Office of Consumer Advocate would like to conclude this hearing as early as possible to avoid conflicts with the filing deadlines in PacifiCorp's Power Cost Adjustment Mechanism case being held in Docket No. 20000-ET-03-205. WIEC and the Office of Consumer Advocate also observed that it would still be necessary for some of PacifiCorp's attorneys and witnesses to be available for the public comment hearings set for Evanston and Casper during the week of January 12, 2004.

23. On December 16, 2003, the Commission issued a Special Order Authorizing One Commissioner or a Hearing Examiner to preside over the public hearings as needed.

24. On December 17, 2003, the Commission issued its Order Denying Motion for Continuance of Hearing and Establishing Comment Hearings. The Commission did not thereby guarantee that hearings in the instant case would end by January 23, 2004, and affirmed that it must give PacifiCorp a full and fair hearing. The Commission formally established the public comment hearings [i] from 6:30 pm to 9:00 pm on January 13, 2004, at the City Council Chambers, 1200 Main Street, Evanston, Wyoming; and [ii] from 6:30 pm to 9:00 pm on January 14, 2004, at the City Council Chambers, 200 North David, Casper, Wyoming.

25. Notice of the public comment hearings was published once per week for two consecutive weeks in the *Cody Enterprise*, the *Douglas Budget*, the *Glenrock Independent*, the *Green River Star*, the *Lander Journal*, the *Lovell Chronicle*, the *Independent Record* in Thermopolis, the *Kemmerer Gazette*, the *Pinedale Roundup*, the *Uinta County Herald* in Evanston, the *Riverton Ranger*, the *Northern Wyoming Daily News* in Worland, the *Buffalo Bulletin*, the *Daily Times* in Rawlins, the *Casper Star-Tribune*, the *Daily Boomerang* in Laramie, and the *Daily Rocket-Miner* in Rock Springs. Notice was broadcast on radio five times per week for two consecutive weeks on KBBS in Buffalo, KRAL in Rawlins, KTWO in Casper, KRKK in Rock Springs, KTHE in Thermopolis, KWOR in Worland, KEVA in Evanston, KMER in Kemmerer, KKTY in Douglas, KODI in Cody, KOVE in Lander, and KUWR in Laramie.

26. On December 23, 2003, PacifiCorp filed the rebuttal testimony and exhibits of Donald N. Furman, Samuel C. Hadaway, Mark T. Widmer, Mark T. Klein, J. Ted Weston, Daniel C. Peterson, Larry O. Martin, Daniel J. Rosborough, Dawn T. Cartwright, and Erich D. Wilson.

27. Pursuant to the orders of the Commission and to due notice, the public hearing in this matter was held on January 13, 2004, in Evanston, on January 14, 2004, in Casper, and on January 16, 19-23, and 26, 2004, in Cheyenne; with PacifiCorp, the Consumer Advocate Staff, AARP, WIEC, and the other intervenors appearing and participating to the extent they deemed necessary. PacifiCorp presented its case through Donald N. Furman, Samuel C. Hadaway, Mark T. Widmer, J. Ted Weston, Daniel J. Rosborough, Dawn T. Cartwright, Larry Martin, Mark T. Klein; Daniel Peterson, Erich Wilson, David L. Taylor, William R. Griffith, and Neil Getzelman. The Office of Consumer Advocate presented its case through Bryce Freeman, Denise Parrish, and Marci Norby. WIEC presented its case through Randall Falkenburg, David Petersen, and Michael Gorman. AARP presented its case through Ronald Binz. The UWUA presented its case through President Harold Giberson; the Irrigator Group presented its case through Kent Hessenthaler, intervenor OCI Chemical Corporation presented Douglas J. Pavlick for the company and for the soda ash industry generally; Casper presented its case through Councilwoman Renee Burgess. No other intervenor presented direct testimony. At the end of the public hearings, the Commission closed the record.

28. On February 3, 2004, WIEC filed the late filed exhibit of Michael Gorman, an article regarding the use of estimates for calculating growth in the DCF model.

29. On February 9, 2004, WIEC and AARP filed their Joint Post-Hearing Brief, and WIEC and the OCA filed their Proposed Findings of Fact. AARP filed its Notice of Adoption of WIEC Proposed Findings and PacifiCorp filed its Post-Hearing Brief together with its Proposed Order. In addition, PacifiCorp filed a Response to Article Offered By WIEC Witness Gorman.

30. Thereafter, and pursuant to due notice, the Commission publicly deliberated the issues in this case on February 20, 2004, and directed the preparation of an order consistent therewith.

31. The various issues coming before the Commission are discussed and decided below. Paragraphs which are simply numbered or which bear an "a" designation contain discussions of issues. Paragraphs bearing a "b" designation represent the Commission's decision on the particular issue.

#### Some Uncontested Issues

32 a. Substantial portions of the PacifiCorp case were uncontested by other parties. The class cost of service study and functional revenue requirement developed and presented by David Taylor, PacifiCorp's Director of Revenue Requirement and Cost of Service, were accepted without objection into the record. (PacifiCorp Exhibit 5, and attached exhibits.) William R. Griffith, Director of Pricing and Operations, sponsored PacifiCorp's proposed rate spread for the rate change in this case, the proposed rate design changes, and the PacifiCorp plan to achieve rate parity between the Wyoming East and Wyoming West service areas by December 31, 2005. (PacifiCorp Exhibit 5, and attached exhibits.) The work of these two witnesses, as described in their direct testimony and exhibits conform to rate making guidelines and directives previously established by the Commission and were accepted into the records under the sponsorship of Donald Furman, PacifiCorp's Senior Vice President, Regulation and External Affairs, without objection by any party. (Tr., pp. 52-54.) The Office of Consumer Advocate confirmed that it did not take issue with the methodology of the cost of service study, proposed rate design (including the proposed abolishment and combination of some service schedules), and rate parity plan as presented by PacifiCorp, subject to factoring in the effects of the proposed adjustments in this case. (Office of Consumer Advocate Exhibit 12, pp. 19-24.)

32 b. The Commission rate making precepts described in their testimony correctly illustrates that the work of Taylor and Griffith properly applies pertinent directives from past cases and is consistent with similar work accepted by the Commission in the past. They are accepted, but remain subject to adjustment to factor in the effects of the Commission's decision in this case.

#### Results of Operations

33 a. J. Ted Weston, presented PacifiCorp's revenue requirement and its view of the actual, adjusted, and normalized results of operations for the test year. In testimony and in his substantial exhibits, he presented data on PacifiCorp's view of its operating revenues and expenses and rate base. He made numerous adjustments on a total company and Wyoming basis, detailing them and factoring them into his calculations. Weston presented results on a total-Wyoming, Eastern Wyoming and Western Wyoming basis, and provided a volume detailing the jurisdictional allocations to Wyoming (See, PacifiCorp Exhibit 4 and four volumes of attached exhibits.) At the hearing, Weston summarized his work in presenting:

"... the company's normalized results of operations based on the historical 12-month period ending September 30, 2002 with known and measurable adjustments through September 30, 2003.

\* \* \*

"Based on these results, it was my direct testimony that the company would need a rate increase of 41.8 million to earn a fair and authorized rate of return of 11 and a half percent as testified to by Dr. Hadaway.

"Since that direct filing I've updated that in my rebuttal to a position, the company's current position is \$38.6 million.

"I've already introduced my exhibits that support this conclusion. I just would note we mentioned Exhibits 2 and 3, these recognize the difference in the cost of service between the premerger, pre Utah Power, Pacific Power merger jurisdictions of eastern and western Wyoming, and would just like to note that the company continues to work to achieve rate parity as has been agreed to and stipulated to by this Commission and other parties.

"In preparation of these results of operations, I've used the modified accord allocation methodology to allocate total company costs to the state of Wyoming. With recognition that outcome of the MSP process is still pending.

"My report or exhibit details revenues, expenses and rate base assigned to the Wyoming jurisdiction based on this allocation methodology." (Tr., pp. 165-166.)

Weston summarized the updating of the PacifiCorp case to reflect an increase request of \$38.6 million (See, PacifiCorp Exhibit 44; and, e.g., attached summary exhibit JTW-1R) and a later update to take into account the Commission's bench ruling denying PacifiCorp's net power cost update proposed on rebuttal (discussed, *infra*). He noted that further work would be needed to reflect the result of this bench ruling on the overall PacifiCorp request. (Tr., pp. 1230-1231; and PacifiCorp Exhibit 45.)

33 b. No party took issue with the test year, the interjurisdictional allocations work presented by Weston, or the results of operations to the extent they stated results on a Wyoming East/Wyoming West basis. (Tr., *passim*.) The issues asserted by the parties and the Commission's determinations from the bench on net power costs, as they affect Wyoming results and the outcome of this case, are described in individual detail below. The test year is acceptable as a useful beginning point for the organization and presentation of data in this case. We are satisfied that PacifiCorp's results of operations have been prepared in a straightforward manner, beginning with

actual company data and in that way and otherwise consistent with past practice. They provide a sound basis for viewing and understanding the adjustments proposed by the parties in this case.

### Findings on Cost of Capital

34 a1. Bruce Williams, Treasurer of PacifiCorp, established the company's embedded costs of debt and preferred stock at 6.601% and 5.800%, respectively, for the period ending December 31, 2002. (PacifiCorp Exhibit 2.) These findings were not challenged in this case. (Tr., *passim*.)

34 a2. Dr. Samuel C. Hadaway testified that the Office of Consumer Advocate and WIEC agreed with the capital structure used by him in determining the overall rate of return, leaving the rate of return on common equity as the only element of the cost of capital subject to controversy in this case. (Tr., p. 140.)

34 a3. Hadaway testified regarding PacifiCorp proposed rate of return on equity (ROE) and presented the Company's requested capital structure and overall rate of return. (Tr. pp. 104-153 and 772-831; and (PacifiCorp Exhibit 6.) Hadaway presented the following table which identified PacifiCorp's capital structure components, its suggested ROE and the resulting overall rate of return it sought in this case.

Capital Components	Ratio	Cost	Weighted Cost
Debt	48.66%	6.60%	3.21%
Preferred Stock	6.39%	5.80%	0.37%
Common Equity	44.95%	11.50%	5.17%
TOTAL	100.00%		8.75%

34 a4. In Hadaway's opinion, the cost of equity capital is "no different than the cost of debt or the cost of preferred stock" in that the cost of equity is the rate of return that common stockholders expect, just as interest on bonds and dividends on preferred stock are the returns that investors in those securities expect. (PacifiCorp Exhibit 6 p. 5.) Hadaway stated that common stocks are more volatile and therefore more reflective of higher risk than high quality bond investments. Hadaway discussed recognized methods for estimating the cost of equity capital, endorsing a combination of discounted cash flow (DCF) and risk premium analyses as the most reliable approaches for estimating the cost of equity capital. He did not recommend the use of comparable earnings models. (PacifiCorp Exhibit 6, pp. 10 and 12.)

34 a5. Hadaway described in detail the DCF modeling and risk premium analyses he employed, noting how he developed the various inputs to these models and how he chose the inputs he used. His initial modeling results produced the basis for his recommendation of an 11.50% ROE:

<u>DCF Analysis</u>	<u>Indicated Cost</u>
Constant Growth Model	11.1%-11.2%

Multistage Growth Models	
Market Price Model	12.1%-12.1%
Two-Stage Growth Model	10.9%-11.0%
Reasonable DCF Range	<u>11.0%-12.0%</u>

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Risk Premium Analysis

Utility Debt + Risk Premium	
Risk Premium Analysis (6.94% + 4.12%)	11.1%
Ibbotson Risk Premium Analysis	
Risk Premium (6.94% + 4.3%)	11.2%
Harris-Marston Risk Premium	
Risk Premium (6.94% + 5.13%)	12.1%

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Fair Cost of Equity Capital	<u>11.5%</u>
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(PacifiCorp Exhibit 6, pp. 12-34.)

34 a6. Hadaway testified that trends in capital markets document the fact that the electric utility industry continues to be viewed as risky. In addition, Hadaway also described what he saw as specific risk circumstances of PacifiCorp particular to Wyoming. In his opinion, the “higher requested return in Wyoming does reflect the higher risk profile” -- the effect he ascribed to the disallowance by the Commission of certain excess power costs in Docket No. 20000-ER-02-184, PacifiCorp’s previous Wyoming general rate case. Hadaway quantified this “higher equity risk profile in Wyoming as an adder of 0.25%, stating that the 11.50% return on equity requested in Wyoming was higher than the 11.25% return PacifiCorp requested in its recent general rate case filed in Washington. Hadaway felt the initial proposed ROE of 11.50% remained appropriate and can be seen as reflecting more than simply the 25 basis points difference between the Wyoming and Washington filing. (Tr. pp. 110 and 133.)

34 a7. At the end of the hearing, Donald Furman summed up PacifiCorp’s position on the cost of equity capital, stating that:

“... from the company’s standpoint, if we look at what is a reasonable range, where we would testify to a reasonable range is between \* \* \* 11.25 being the upper end of the range and 10.9 being the lower end of the range, those representing the Hadaway position without the Wyoming premium and Mr. Hadaway’s testimony of how Ms. Norby’s model would result if the growth rate error were corrected.” (Tr., pp. 1277-1278.)

34 a8. Marci Norby testified for the Office of Consumer Advocate on the cost of equity capital, recommending a result of 10%, which would produce an overall rate of return of 8.1%. She employed a group of three constant growth discounted cash flow models to estimate an acceptable return on equity, which produced a cost of equity capital output for all three models of between 9.3% and 10.9%. She also used a capital asset pricing model to assist her in determining a recommended ROE, producing an average

result of 9.5%. Her nonconstant discounted cash flow analysis produced results of 10.4%, 9.2% and 8.6%, using 5-year, 6-year and Value Line analyst growth rates. As a check on her other analyses, she also undertook a risk premium analysis which indicated a required equity return of 9.95%. In making her final recommendation, she compared the results of the various model runs, excluding DCF and NDCF model results using Value Line growth rates, and producing a range of results from 8.6% to 10.9%. Averaging the remaining model results produced a result of 9.95%, which she rounded to 10%, which was supported by her 9.95% risk premium analysis result. (Office of Consumer Advocate Exhibit 12, and MLN-2, MLN-3, MLN-4, MLN-5, MLN-6 and MLN-9.)

34 a9. PacifiCorp criticized Norby's findings, *inter alia*, noting that two discounted cash flow models projected growth through 2008. PacifiCorp urged their rejection as tending to understate growth rates. According to PacifiCorp, if Norby had projected growth rates through 2007, a better result of 10.9% would have been achieved. (Tr., pp. 788-789.) PacifiCorp also criticized Norby's use of the capital asset pricing model and for varying the parameters of her analyses over the last three PacifiCorp general rate cases.

34 a10. For WIEC, Michael Gorman recommended a rate of return on common equity of 10.0% based on DCF, CAPM and risk premium analyses. He applied the models to the same group of publicly traded electric utilities, and used the same broad group of companies used by PacifiCorp in its analyses. (WIEC Exhibit 3, p. 8; and attached exhibit MPG-1, Schedule 1.) He described the inputs to and results of his constant growth DCF analyses, producing an average result of 9.6%. (WIEC Exhibit 3, pp. 10-13.) Gorman undertook risk premium analyses, producing a recommended range of returns on equity of between 10.1% and 10.9%, with a midpoint of 10.5%. (WIEC Exhibit 3, pp. 14-16.) Gorman also used a capital asset pricing model, producing a range of results between 10.1% and 10.7%, with a midpoint of 10.4%. (WIEC Exhibit 3, pp. 16-20.) Gorman's results represent the midpoint between his DCF analysis and the risk premium and CAPM analyses. Gorman concluded that such a result would allow PacifiCorp to "earn a pre-tax interest coverage ratio of 3.4x on the capital supporting rate base," noting that this was sufficient to maintain a Standard & Poor's bond rating of A-. (WIEC Exhibit 12, pp. 20-21.)

34 a11. Gorman criticized PacifiCorp's capital cost results, arguing, *inter alia*, that PacifiCorp did not properly recognize its relatively low market risk, that changes in federal tax law tending to lower return expectations were not factored in to Hadaway's analysis, that Hadaway's growth indicators overstate needed returns, that the market assigned lower risk coefficients to utilities than Hadaway did. He did not find that Hadaway had stated a correct relationship between interest rates and equity risk premiums. (Tr., pp. 484-493.) On examination by PacifiCorp, Gorman confirmed the basic nature of the derivation of the cost of capital. Determining the appropriate rate of return on common equity is not susceptible to a simple mathematical calculation. It combines economic science and economic art with sound judgment and can lead to reasonable disagreements among experts and among their recommendations. (Tr., p. 495.)

34 a12. For AARP, Ronald Binz recommended a return on equity of 10.5% for

which he explained the derivation:

“With respect to rate of return, I did not sponsor technical testimony of the sort sponsored by witnesses for the Office of Consumer Advocate, WIEC or the company. However, I was involved in negotiations with PacifiCorp in the Oregon case and in their Utah case.

“I recommend that the Commission consider the fact that the Oregon case, after substantial negotiations among the parties, was settled in August of 2003 with a rate of return on rate base. That’s a rolled-in rate of return cost of capital of 8.283 percent. That compares with the level sought in this case by PacifiCorp of 8.751 percent.

“If you work backwards from the return on rate base, the rate of return to a cost of equity, that translates using the capital structure filed in Wyoming to 10.46 percent. That’s the number that I corrected in my testimony. The correction was necessitated by the fact that I inadvertently used the Oregon capital structure which was just slightly different in deriving the ROE. That correction made no difference to any of my exhibits because they were all based on the rate of return on rate base which is as I represent it to be in my calculations.

“So 10.46, we could round that to 10.5, I suspect. There’s certainly not that kind of two decimal point accuracy in this business. That, in my view, represents a reasonable place to consider the current cost of equity, in part because it was settled in Oregon at that level, but also in part because the Commission in its last case in Wyoming authorized 10.75 percent. I’m of the opinion, not as a rate of return technical expert, but as an economist that cost of capital have generally declined since that point in time and I think a quarter percent drop from that is a reasonable place for the Commission to determine the cost of equity.” (Tr., pp. 843-845.)

### Legal Standard: Cost of Capital

34 a13. Consistent with the discretion given to the Commission in examining cases and reaching a just result (discussed generally, *infra*), there are no precise bases in Wyoming law to guide the Commission in determining a utility’s rate of return on equity. Therefore, the Commission must apply its informed judgment to all of the evidence in the case. In this traditional rate-base rate-of-return case, the Commission must determine the cost of capital, and we are guided by the earnings and capital attraction standards of *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*, 262 U. S. 679 (1923); and *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U. S. 391 (1944); accepted in Wyoming in *In re Northern Utilities*, 70 Wyo. 275, 249 P.2d 769 (Wyo. 1952). A public utility remains entitled to rates which will permit it a reasonable opportunity to earn a return on its investment properly reflecting the risk of the business and which will reasonably preserve the financial soundness of the company and allow it to raise the capital needed to provide service in the public interest. Having said that, we also acknowledge that the measurement of the required level of return is not a matter of simple mathematics but is a matter requiring judgment and the employment of discretion. The United States Supreme Court, in *Hope*, *supra*, noted that a “just and reasonable end result” is the desired outcome and that it is the end reached, rather than the method employed in achieving it, that should control.

### Conclusions on Cost of Capital

34 b1. The determination of cost of capital in rate proceedings, as noted

above, combines economic science, economic art and sound judgment as to what yields the most reasonable result. We accept the use of the actual PacifiCorp capital structure, described above, as reasonable and uncontested. We also accept the actual costs of debt and preferred stock offered by PacifiCorp because they have been clearly and accurately demonstrated, and they are uncontested. We believe that the Office of Consumer Advocate, WIEC and PacifiCorp have provided us with professional, rigorous, well reasoned and adequately supported examinations of the proper cost of common equity, performed on the basis of economic models, the theoretical underpinnings of which we have consistently approved in the past, either as being generally dispositive of the issue or as furnishing reasonable bases on which to test other results. AARP, while not providing an economic modeling analysis, nevertheless provided useful additional contextual information to assist us in assessing the issue.

34 b2. The recommendations of Hadaway (11.50%), Norby (10.0%), Gorman (10.0%), Binz (10.50%), taking into consideration the criticisms expressed by these experts regarding one another's work, illustrate that reasonable and informed regulatory experts may sincerely disagree among themselves without undermining the validity of their own, or their adversaries', positions. For PacifiCorp, Donald Furman exemplified this point when he testified that a reasonable range of outcomes would lie between 10.9% and 11.25%, factoring out the Wyoming-specific risk premium. None of the experts conclusively discredited their adversaries' conclusions, and their criticisms tended to adjust findings downward for Hadaway and upward for Norby, Gorman and Binz, a centralizing tendency. We must take the results as illustrating the reasonable disagreements which can arise among experts.

34 b3. Although a simple mathematical average of these results (taking into account the high end of the PacifiCorp recommendation at 11.25%) would seem to indicate that the return on common equity should be established at a rate of approximately 10.4% to 10.5%, we conclude, in view of all of the evidence on the subject in this case, that the reasonably economically justified cost of common equity should remain at 10.75%. (We note in passing that the unchallenged result of 10.75% in the previous PacifiCorp general rate case in Docket No. 20000-ER-02-184, was established in consideration of a similar recommendation by Hadaway of 11.25%, and *higher* recommendations by Norby (10.14%) and Binz (an upper limit of reasonableness of 10.75%.) Although it appeared from the evidence that the highly unsettled electricity market of the recent past has abated and that increased stability is developing in the beleaguered electric utility industry, we believe that it is too early for the Commission to consider downward adjustments to equity return rates. [Commissioner Furtney dissents with respect to the majority's decision expressed in this paragraph. See the attached partial concurrence and dissent.]

34 b4. We must reject a Wyoming-specific risk premium on the return on equity based on the disallowance in a previous case of excess power costs. The Commission has not rescinded that disallowance, and we do not believe it would be reasonable or in the public interest to give that issue new life by allowing the disallowed costs to be borne by ratepayers in the form of a 0.25% adder to the return on equity. The Commission's position on this point was summed up accurately by Chairman Ellenbecker in his question to PacifiCorp at the public hearing:

“If it was the Commission’s decision to deny deferred power costs as inappropriate for recovery, why would it be appropriate to allow recovery of an additional premium in another way associated with or caused by the issue for which it was determined there shouldn’t be any cost recovery?” (Tr., p. 145.)

[Commissioner Furtney dissents with respect to the majority’s decision expressed in this paragraph. See the attached partial concurrence and dissent.]

34 b5. We conclude that the overall authorized rate of return for PacifiCorp in this case should be 8.415%, determined as follows:

Component	Ratio	Cost	Weighted Cost
Debt	48.66%	6.60%	3.212%
Preferred Stock	6.39%	5.80%	0.371%
Common Equity	44.95%	10.75%	4.832%
TOTAL	100.00%		8.415%

Our decision above neither requires nor precludes the use of any model or any capital estimation technique in other cases. We will not here pass judgment on the future state of the art or the science of economic thought and will not limit the reasoned diversity of expert presentations.

[Commissioner Furtney dissents with respect to the majority’s decision reached on this issue. See the attached partial concurrence and dissent.]

#### Net Power Costs: General

35 a1. Mark Widmer, Regulation Manager, testified to PacifiCorp’s normalized net power costs. PacifiCorp’s initial filing in this case included approximately \$557.4 million in net power costs in the revenue requirement, based on test period data updated through September 30, 2003, expressed on a total company basis and determined through the use of the company’s GRID model. This was about \$69 million lower than the \$626.4 million included in base rates in the company’s last Wyoming general rate case in Docket No. 20000-ER-02-184, due in large part to the diminution in load of about 1.5 million MWh since that time. He stated that the normalized net power costs for this case were developed in a manner consistent with the Commission’s treatment of PacifiCorp’s previous power cost filings including adjustments for imputed SMUD revenue and excluding contracts that expire during the proforma period. Widmer also gave detailed testimony on the GRID model and the normalized inputs to that model. PacifiCorp updated its net power cost study in November 2003, decreasing the figure to \$549.9 million. (Tr. pp. 153-161, PacifiCorp Exhibit 7, pp. 1-18; and PacifiCorp Exhibit 36.)

35 a2. Widmer noted that his November 2003 net power cost update, made at the request of the Office of Consumer Advocate, brought the figures more up to date and formed the basis of the Office of Consumer Advocate’s analysis in this case. Additionally, this update reflected major changes advocated by WIEC’s witness Falkenberg, including:

[i] factoring in the effect of new contracts, the Deseret Power purchase, Colokum (APGI) exchange, the Los Angeles Department of Water and Power location exchanges, and Anaheim location exchanges; [ii] inclusion of certain contract adjustments (Flathead losses, Black Hills energy charge, Clark S& I nomination, Kennecott Generation Incentive and Fort James); [iii] adjustment of the Gadsby and West Valley CT equivalent forced outage rates (EFORs); and [iv] inclusion of all actual short-term firm transactions that occurred during the proforma period, and an updating of the non-firm wheeling capacity to SP-15 and market caps to be consistent with the actual level of activity. (PacifiCorp Exhibit 36, p. 2.) Widmer discussed WIEC's adjustments at the hearing:

"Despite all of our differences [with WIEC], we have agreed on several adjustments. We've agreed to model all short-term firm transactions. We've also agreed on the proper adjustment for the DSM load control or Kennecott contract adjustment. We've also agreed on the Fort James contract adjustment, and we've agreed on the inconsistency portion of the heat rate adjustment which was actually included in the final update, but it is in response to the rebuttal testimony of Mr. Falkenberg. Mr. Falkenberg adopted the company's proposal for quick start benefits. And last, we also have decided that we're going to adopt the balance of WIEC's proposed CT dispatch logic adjustment which is an additional \$1 million." [Editorial material added.] (Tr., pp. 1114-1115.)

35 b1. PacifiCorp Exhibit 37 (Revised) is the "consensus" starting point for further analysis of net power costs, concluding with a net figure of \$547.9 million when the "quick start" and "gas unit dispatch" issues are included. This exhibit lists the adjustments which contribute to this figure, and provides both assessments of their relative values, together with indications of agreement by WIEC and the Office of Consumer Advocate.

35 b2. Through his rebuttal testimony in December 2003, Widmer sought to again update and also increase the annualized net power cost figure to \$574.1 million. On the motion of the Office of Consumer Advocate, the Commission disallowed this late (filed on December 23, 2003) and substantial update to these costs as being beyond the scope of rebuttal testimony and thus not being capable of being thoroughly analyzed and examined fairly in this case by all parties. (See, e.g., PacifiCorp Exhibit 36, pp 1-2; and Tr., pp. 1106-1109.) This issue was disposed of by the Commission correctly at the hearing and therefore does not require further discussion here.

#### Net Power Costs: Gas Price Adjustment

36 a. The Office of Consumer Advocate proposed to adjust the cost of gas in net power costs downward by approximately 25% to reflect lower market prices for natural gas observed by the OCA through November 2003. (See, Office of Consumer Advocate Exhibit 1, p.20, and Exhibit 2, generally.) On rebuttal, PacifiCorp testified that the gas cost measurement by the Office of Consumer Advocate was not correct because it actually purchases gas either under contract (regarding Hermiston) or on the basis of a 24-month rolling average. PacifiCorp's actual gas costs therefore could not accurately be measured with reference directly to the market in May 2003 (at the time of filing of this case) or in November 2003 (the time of PacifiCorp's update).

36 b. The Office of Consumer Advocate's proposed adjustment should be

rejected because it is grounded in the incorrect premise that current market prices accurately describe PacifiCorp's gas costs. PacifiCorp's purchasing strategy includes contracts and purchases on a 24-month rolling average gases. Market prices do not provide a reasonable standard by which to judge PacifiCorp's gas purchasing activity in this case.

#### Net Power Costs: Short-Term Firm Transactions

37 a. PacifiCorp and WIEC, through the testimony of Mr. Falkenberg (WIEC Exhibit 1, p. 13), have agreed that the value of short-term firm transactions occurring during the test period should be included in net power costs. WIEC and PacifiCorp disagree, however, on the calculation of the value of the adjustment. PacifiCorp bases its adjustment on the updated net power cost study, while WIEC utilizes the costs found in the original filing in this case and excluded the value of certain transactions which occurred in Colorado and which relate to a market cap adjustment which we approve, *infra.* (Tr., p. 307, and (PacifiCorp Exhibit 36, pp. 5-6.)

37 b. We agree that the value of these transactions should be included in the determination of PacifiCorp's net power costs. They are legitimate and ongoing components of PacifiCorp strategy for procuring power supplies and should be included to produce an accurate statement of those net power costs. We cannot reconcile the WIEC and PacifiCorp calculations of the value of these transactions, and will accept PacifiCorp's version of the calculation because it uses the updated study and because it includes the Colorado transaction costs.

#### Net Power Costs: Short-Term Firm Transactions - Net Losses

38 a. When PacifiCorp engages in short-term firm transactions, it may experience gains or losses; and WIEC urges the Commission to exclude losses on short term transactions which it termed simultaneous and characterized as "one-time" costs which should be omitted through the process of normalization. (WIEC Exhibit 1, pp. 14-16.) PacifiCorp argued that gains and losses on short term firm transactions should be included in net power costs. Transactions close in time may bear no direct relationship to one another and are part of the ongoing business of balancing PacifiCorp's power supply. The products available to it in the market may not exactly match PacifiCorp's requirements, and it may take steps to sell the portions of the product not needed for its system. (PacifiCorp Exhibit 36, pp. 6-9.)

38 b. PacifiCorp must take reasonable measures to balance its power supplies, and to make power available to its customers when and as it is needed. Short term firm transactions are a part of that process, and we believe that any net losses on these transactions should be included along with any net gains for rate making purposes. These transactions do not amount to speculative "day trading" transactions entered into for profit but are related to its statutory duty to provide service. We must view alike the legitimacy of any gains or losses from these transactions. Therefore, we reject the proposed WIEC adjustment.

### Net Power Costs: Short-Term Firm Transactions - Margin Imputation

39 a. WIEC advocated imputing a margin of 50¢ per MWh for short term firm transactions delivered in the same hour, reducing PacifiCorp's net power costs and adjusting for PacifiCorp's profits based on the ". . . expectation that the Company will actually strive to make a gain in hours where there is a simultaneous purchase and sale of power." WIEC thought such a margin would be "difficult to quantify" but urged that "at least half a mill (\$.5/mWh) would be a reasonable target for the Commission to establish." WIEC found this a "modest target." (WIEC Exhibit 1, pp. 16-17.) PacifiCorp argued that its short term firm transactions are largely engaged in to balance the system and that, to the extent they are not, the actual margins are already accounted for in net power costs. (PacifiCorp Exhibit 36, pp. 10-11.)

39 b. We will reject this proposed adjustment as arbitrary and unsupported by the evidence. Imputing a margin to short term firm transactions implies that they are engaged in for speculative profit rather than for the purpose of balancing the system. As we view the issue, the gains and losses from these transactions are part of PacifiCorp's ongoing efforts to provide adequate and reliable service and do not require the imputation of an arbitrary profit margin. The actual facts of the activity are sufficient to measure its impact.

### Net Power Costs: Adjustment for Option Value of West Valley, Morgan Stanley and Sempra Contracts

40 a. WIEC asks the Commission to recognize the "option value" to PacifiCorp of its West Valley, Morgan Stanley and Sempra power contracts, asserting that neither the company's GRID model nor the inclusion of actual power costs, as would be done in a power cost adjustment mechanism, would capture the asserted value. Wyoming Industrial Energy Consumers argued that PacifiCorp ". . . should be required to reflect the assumed level of such benefits in the test year." (WIEC Exhibit 1, p. 18-29.) PacifiCorp argued that each of the three contracts gives it options to obtain power for reliability, risk mitigation and to serve peak load on the eastern portion of PacifiCorp's system. The contracts allow PacifiCorp to avoid higher priced purchases in the market, avoid transmission constraints and make additional sales when the opportunity arises. They were, according to PacifiCorp, acquired as risk-adjusted least cost resource options. Their value is already correctly accounted for in this case. They influence actual short term firm transactions (e.g., sales made and purchases avoided), all of which are to be included in net power costs. (PacifiCorp Exhibit 36, pp. 14-18.)

40 b. WIEC's adjustment should be rejected. The proposed optionality valuation is highly speculative, and the effect of these agreements on power costs is actually captured among the short term firm data included in net power costs in this case. These options relate directly to actual power resources, giving PacifiCorp valuable flexibility in dealing with their resource needs -- especially when those resources may, because of system demands, be most valuable. Some very important system benefits, such as being able to avoid transmission constraints during peak times on the eastern part of PacifiCorp's system, have a value that must be measured in substantial general economic

and public safety terms beyond the price of the agreement. We will not artificially penalize PacifiCorp's efforts to secure and maintain such resources. We note in passing that this decision does not bear on the future use -- or avoidance -- of Black-Scholes modeling as a decisional tool for assessing options. [Commissioner Furtney dissents with respect to the majority's decision expressed on this issue. See the attached partial concurrence and dissent.]

#### Net Power Costs: Adjustment for Option Value of the P4 Contract

41 a. As it requested with respect to the West Valley, Morgan Stanley and Sempra contracts, WIEC asks the Commission to include a net power cost adder for the value of the optionality benefits to PacifiCorp from the P4 Production Company contract. (WIEC Exhibit 1, pp. 30-32.) The contract allows PacifiCorp to curtail 67 MW of capacity to P4 during the 500 highest priced hours of the year and to curtail load during system emergencies. The economic curtailment is accounted for through the inclusion of short term firm transactions. The system emergency curtailment feature is not in the GRID model, but it is still valuable to PacifiCorp and its customers for its enhancement of reliability and system integrity. PacifiCorp stated that the benefits from the P4 contract amounted to about \$7 million per year. (PacifiCorp Exhibit 36, pp. 18-20.)

41 b. We reject this adjustment as we did with the proposal regarding the West Valley, Morgan Stanley and Sempra contracts. The adjustment is highly speculative, and the effects of the contract are captured for ratemaking purposes by their inclusion among short term firm transactions. The less quantifiable benefits of system reliability are clear and real. They help to justify the contract and to demonstrate its value in general economic and public safety terms. In giving PacifiCorp an additional measure of control over its actual power supply, the contract is a reasonable approach to dealing with actual power supply issues. [Commissioner Furtney dissents with respect to the majority's decision on this issue. See the attached partial concurrence and dissent.]

#### Net Power Costs: Adjustment for the Aquila Hydro and J. Aron Temperature Hedges

42 a. PacifiCorp has hedging agreements under which it either makes or receives payments based on hydro energy conditions (Aquila Hydro) and may receive payments when temperatures and electric market prices go beyond certain parameters (J. Aron). These true hedging agreements seek to mitigate electric supply price volatility through monetary compensation arrangements. PacifiCorp acknowledges that passing through the costs and benefits of these hedging agreements would be consistent with the theory of a power cost adjustment mechanism. (PacifiCorp Exhibit 36, pp. 20-23.) WIEC seeks to exclude the premium paid by PacifiCorp for these hedges from the net power costs in this case, arguing that it would be improper to include the costs because customer rates are fixed between rate cases, and it is therefore not possible to accurately reflect both the risk and reward which might come from these hedges. WIEC observed that the PacifiCorp GRID model assumes normal hydro and temperature conditions and therefore does not reflect these hedges. Customers could not realize the benefits of the hedges in rates. (See,

WIEC/AARP Brief at pp. 4-8 and references cited there.) AARP proposed a similar adjustment. (AARP Exhibit 1, p. 20.) The Office of Consumer Advocate suggested keeping the cost of the hedges in rates if the benefits are accounted for as revenue or as an offset against net power costs. (Office of Consumer Advocate Exhibit 4, pp. 14-15.)

42 b. We accept WIEC's proposed disallowance of the hedging premiums from this case. As costs and revenues are dealt with currently for rate making purposes, the cost of these hedges could be factored in, but there is no way to accurately reflect any monetary benefit which might come to customers, creating a situation in which, were we to allow this adjustment, customers would pay the bill for the hedges but would not realize any offsetting benefit. A power cost adjustment mechanism would address the problems presented by these hedges. Absent such a mechanism, the benefit flows to shareholders only. With such a mechanism, the costs could be factored in to rates, and any payments made to PacifiCorp could likewise be brought into the rate calculation. The price and price volatility mitigation benefits of the hedges could then be realized by the ratepayers in an accurate and timely fashion. The Office of Consumer Advocate adjustment stems from this premise, but, without a power cost adjustment mechanism, does not account for the sporadic nature of the payments which might be received. Our decision should not be taken as an indication that the concept of hedging is inherently imprudent. We note that these hedging contracts are not conceptually the same as those contracts and resources which deal directly with the actual power supply available to PacifiCorp and which we have allowed to be included in rates, *supra*. [Commissioner Furtney dissents with respect to the majority's decision on this issue. See the attached partial concurrence and dissent.]

#### Net Power Costs: the Kennecott Generation Incentive Contract

43 a. PacifiCorp's generation incentive contract with Kennecott, a large industrial customer, provides incentives for Kennecott to improve the availability of its on-site generating unit, improving the power supply resource for PacifiCorp and its system. WIEC sought to reduce the cost of the contract in rates to reflect the actual amount of test year load affected by it. According to PacifiCorp, WIEC's adjustment was an incomplete normalization of the effects of the contract which ignored a portion of the relevant data needed to reflect actual experience during the entire test year and to update the adjustment for the current pricing under the contract. PacifiCorp's proposed refinement of this adjustment in its final form, was uncontested. See, (PacifiCorp Exhibit 36, pp. 23-24; Exhibit 37 (Revised); WIEC Exhibit 1, p. 38; and Tr., *passim*.)

43 b. The contract represents a legitimate power supply strategy for PacifiCorp. The adjustment, in the uncontested form finally proposed by PacifiCorp, should be approved because it encompasses data for the entire test year and adjusts for changes in the contract which will control during the time when rates are in effect.

#### Net Power Costs: the Fort James Contract

44 a. WIEC proposed to reduce the amount of generation purchased by the Fort James Cogeneration Project because of an overstatement of net power costs stemming from a failure to account for a reduction in generation. (WIEC Exhibit 1, p. 38.)

PacifiCorp agreed with the adjustment. (PacifiCorp Exhibit 36, p. 24.)

44 b. We accept this uncontested adjustment because it more accurately reflects actual net power costs in this case.

#### Net Power Costs: Market Caps

45 a. PacifiCorp's GRID model contains limitations imposed on the size of the electricity market during the "graveyard" hours of 2:00 through 5:00 a.m. to account for the illiquidity of the late night power market. Without the imposition of these caps, the model would portray PacifiCorp's coal units as generating more than they actually produce during those hours. PacifiCorp proposed a revision of the market cap because it found the model allowing too little coal generation during these hours. PacifiCorp also made a more in depth analysis of its modeling of thermal generation and a number of adjustments to allow the model to more accurately represent actual operations. These included adding the Colorado "bubble" (representing resources in this area for modeling purposes), moving certain assets into that bubble from the East Main resource bubble, adjusting non-firm wheeling expense (discussed, *infra*), including all short term firm transactions, and adjusting the market cap. PacifiCorp stated that these adjustments allowed the model to portray coal generation at a reasonable level. (PacifiCorp Exhibit 36, pp. 24-26.) WIEC proposed a much more substantial adjustment to market caps allowing for more sales and lowering power costs for this case. (WIEC Exhibit 1, p. 40-41.) This adjustment would have modeled coal generation at levels exceeding the actual four-year rolling average of such generation by about 860,000 MWh. (PacifiCorp Exhibit 36, attached Exhibit MTW-3R.)

45 b. We accept PacifiCorp's adjustments as portraying thermal generation at a more realistic level for net power cost modeling purposes. Its adjusted market cap provides increased accuracy in modeling results. We must also therefore reject WIEC's larger market cap adjustment because it produces results far in excess of actual average experience.

#### Net Power Costs: Outage Rate Formula

46 a. WIEC proposed an adjustment to thermal availability factors to net generation above Maximum Dependable Capacity (MDC) against energy lost during partial outages. This, for WIEC, would be a reasonable substitute for developing new ratings for PacifiCorp's generating units; and is intended to capture additional generation and lower net power costs in the case. (WIEC Exhibit 1, p. 41-43.) PacifiCorp opposed this adjustment, arguing that units may operate below their MDCs for a variety of reasons which are not all attributable to outages or derated events, including factors such as fuel quality and weather. PacifiCorp argued that it determines MDCs based on the net generation expected to be achieved on an ongoing basis (both over and under the unit's MDC). For modeling purposes, resetting MDCs would not change the net amount of generation being reflected in GRID, making WIEC's proposal asymmetrical, unrealistic and unfair. (PacifiCorp Exhibit 36, pp. 26-28.)

46 b. We reject WIEC's proposed adjustment because the underlying assumptions driving it are incorrect and would result in a less accurate portrayal of net power costs in this case.

#### Net Power Costs: Gas Plant Heat Rate Modeling

47 a. WIEC proposed to revise PacifiCorp's modeling of gas plant heat rates, asserting that the GRID-modeled heat rates are substantially too high when compared to actual heat rates. For WIEC, Mr. Falkenberg also noted that the modeled heat rates reported to FERC were lower than those used in GRID modeling. The WIEC adjustment was developed using actual 2002 reported heat rates. (WIEC Exhibit 1, pp. 6 and 45.) PacifiCorp testified that the heat rates it used were consistent with operating reserves being carried by these plants in the GRID model and were developed from company records of actual performance and, where needed, from information supplied by unit manufacturers. To allow GRID to employ these units at WIEC's suggested heat rates would require the units to run at sustained higher levels (i.e., at higher capacity factors). This would require other lower cost coal plants to carry the needed reserve capacity and would actually drive up net power costs. Nevertheless, PacifiCorp made a reassessment of heat rates for this case and proposed an adjustment of \$2.5 million to resolve an inconsistency between heat rates used for costing and dispatch purposes. (Tr., p. 1114; PacifiCorp Exhibit 36, pp. 28-31; and see, PacifiCorp Exhibit 37, line 17.) WIEC agreed that the Hermiston plant should not have been included in its proposed adjustment, thus reducing the overall dollar value of its proposal. (Tr., p. 306.)

47 b. We will accept PacifiCorp's revision as a necessary adjustment to net power costs to produce more accurate GRID modeling results. We reject the heat rate adjustments proposed by WIEC (beyond the agreed-to inconsistency adjustment). The adjusted (for inconsistency) heat rates are developed from reliable data sources and are not unrealistically high. It further appears that the adjustment would produce anomalous results when applied in an iteration of the GRID model.

#### Net Power Costs: Gas Peaking Unit Dispatch Logic

48 a. WIEC found that the GRID model was overstating fuel costs by allowing gas peaking units to run excessively at early hours, in manners not supported by PacifiCorp's generator logs. WIEC analyzed several approaches to correcting the problem, and recommended a commitment logic adjustment -- modeling the minimum capacity of combustion turbines at 1 MW to reduce the excess costs. WIEC also found that the GRID model (version 2.0 as used in this case) could not reflect the quick start benefits of combustion turbines. (WIEC Exhibit 1, pp. 43-44.) PacifiCorp agreed that GRID 2.0 could not capture quick start benefits, but noted that version 2.1 could do so and that it identified the needed adjustment at a value of approximately \$1 million. PacifiCorp later confirmed that it would approve the remainder of WIEC's proposed adjustment, concerning overstatement of the amount of generation from gas peaking units, also at a

level of \$1 million. (PacifiCorp Exhibit 36, pp. 31-33; PacifiCorp Exhibit 37 (Revised); and Tr., p. 1156.)

48 b. We approve the WIEC adjustments, as agreed to by PacifiCorp, as enhancements of the accuracy of the GRID model and the net power costs in this case. We further accept the valuation of these adjustments as calculated by PacifiCorp as the best statement of their true impact.

### Net Power Costs: Non-Firm Transmission Expense

49 a. WIEC compared PacifiCorp's recent actual wheeling expenses to GRID model results and formed the opinion that GRID overstated the volume of non-firm (balancing) transactions, thereby overstating the associated wheeling expense. It recommended an adjustment to decrease net power costs to compensate. (WIEC Exhibit 1, pp. 45-46 and exhibits cited there.) PacifiCorp agreed that the wheeling expense was overstated because the model used more transmission along the Mona-SP-15 path than PacifiCorp actually has. PacifiCorp reduced the non-firm capacity to reflect this reality in its model, but it also adjusted the associated wheeling revenues to account symmetrically for the diminished level of wheeling, obtaining a lower value for this adjustment. (PacifiCorp Exhibit 36, p. 34; and PacifiCorp Exhibit 37, line 7.)

49 b. We approve the PacifiCorp version of the solution to this modeling error because it updates both the expenses and the revenues associated with the adjustment. WIEC's adjustment, in concentrating on the reduction of wheeling expense, is incomplete and unfairly understates the entire impact of the issue.

### Net Power Costs: The Deseret Contract

50 a. WIEC asserted what it termed an overstating error in the amount of \$1.7 million of net power costs concerning the purchase of power from Deseret Generation and Transmission Association. According to WIEC, the error existed in PacifiCorp's November 19, 2003, net power cost update and should have been reversed. (See, WIEC Brief at 16-17; and WIEC Exhibit 4, p. 1, ll. 18 and 2d line identified as no. 1.) However, at the public hearing, WIEC discussed its Exhibit 4, describing the significance of the color coding on that exhibit:

"The ones that don't have any color coding are ones that I really don't have any ability at this point in time to endorse or dispute simply because of the lack of opportunity and time to fully develop all of the information necessary and all the simulations necessary." (Tr., p. 285.)

The Deseret adjustment was not color coded on this exhibit; and it was, moreover, not specifically discussed by any party at the public hearing.

50 b. We reject this adjustment as being without adequate support in the record.

## Rate Base: General

51 a. For PacifiCorp, J. Ted Weston described the derivation of the unadjusted rate base data from PacifiCorp's accounting system and described a number of adjustments made thereto by PacifiCorp. (PacifiCorp Exhibit 8, pp. 8-9, *et seq.*) On Exhibit JTW-1, Vol. 1 of 4, page 2.2, attached to PacifiCorp Exhibit 8, Weston provides a summary of the details of PacifiCorp's rate base and the various adjustments and deductions made by the company in arriving at an adjusted rate base for use in this case. No party challenged the overall work of PacifiCorp in deriving and presenting its rate base, and the proposed individual adjustments to rate base are described and disposed of below.

51 b. Upon examination of the record, we conclude that PacifiCorp's derivation of rate base for this case, its allocation to Wyoming, and the basic conclusions drawn from it, have been done in compliance with the requirements for an accurate and fair portrayal of the investment in place and serving the people of Wyoming. Its adjustments, as listed on JTW-1, except to the extent they may be discussed specifically below, are also accepted by the parties and the Commission.

## Rate Base: CWIP Reversal

52 a. PacifiCorp made test year accounting entries with respect to certain items of Construction Work in Progress written off in 1999. The Office of Consumer Advocate advocated reversing this adjustment, arguing that PacifiCorp originally could not identify the nature of the plant or plant account in which it should be recorded, resulting in it being written off PacifiCorp's books with a credit of \$5 million to maintenance expense. In 2002, some of the plant was identified and recorded as utility plant; and, in this case, PacifiCorp seeks to reverse the maintenance expense credit. The Office of Consumer Advocate questioned numerous aspects of this adjustment, concluding that the issue was now too unclear (i.e., unproven) to allow the adjustment. (Office of Consumer Advocate Exhibit 4, pp. 5-7.) PacifiCorp argued that the plant had in fact finally been identified and that it was not included in rate base because of normalizing adjustments in an earlier case. Having identified the plant, PacifiCorp argued that the adjustment should be approved because the maintenance expense adjustment pertained to plant for which PacifiCorp's customers had not paid. The benefits should match up with the plant to which they pertain. (PacifiCorp Exhibit 44, pp. 2-3.)

52 b. We accept PacifiCorp's adjustment. The pertinent plant has been identified, it is not in rate base and the erroneous benefit to consumers related to this plant should be reversed. The matching principle would include all adjustments related to this plant if it were part of the ratemaking calculation. Likewise, if it is not part of the calculation, all such adjustments should be excluded. [Commissioner Furtney dissents with respect to the majority's decision on this issue. See the attached partial concurrence and dissent.]

## Rate Base: Customer Advances

53 a. PacifiCorp discovered that this case included entries for customer advances in another jurisdiction which do not pertain to Wyoming. The company found that this error overstated rate base for this case by \$501,509 and made reversing entries to correct the error. (PacifiCorp Exhibit 44, p. 14.)

53 b. We approve this adjustment as a proper correction of a simple error.

#### Rate Base: Post-Test Period Plant Additions

54 a. The Office of Consumer Advocate proposed an adjustment to remove plant not in service by September 30, 2003, one year after the end of the test period in this case. The Office of Consumer Advocate argued that this adjustment would minimize regulatory lag by not disallowing all plant which came into service after the end of the test year and that it replaced estimates contained in the original case with actual numbers developed during preparation for the hearing. The Office of Consumer Advocate was unwilling to go beyond September 30, 2003, in adding plant because of the difficulty in making accurate corresponding adjustments to revenues and expenses so close to the time of the hearing. They noted that the discovery process in this case could not yield the additional data needed to make it possible to include additional plant in rate base with all of the necessary updates. (Office of Consumer Advocate Exhibit 4, p. 7-12, Exhibits 10 and 11; and Tr., pp. 665-667.) Without advocating the concept, the Office of Consumer Advocate observed that the use of a future test year could have given the parties a better opportunity to examine all aspects of PacifiCorp's growth. (Office of Consumer Advocate Exhibit 4, p. 11.) PacifiCorp agreed in principle with this adjustment, including the limitation of post-test year adjustments to plant actually in service by September 30, 2003. It did not agree with the AARP or WIEC which advocated not allowing plant in rate base beyond the test year. PacifiCorp disagreed, noting that the plant sought to be included was in use and serving the needs of existing customers and load (i.e., that it was not the sort of plant, the inclusion of which would require matching adjustments to account for the impact of new customers being served by it); and the operation and maintenance expenses related to the plant would already be factored into the case as part of PacifiCorp's routine maintenance cycle. (See, PacifiCorp Exhibit 44, p.3-5; and Tr., pp. 416-417 and 421.)

54 b. We accept the Office of Consumer Advocate's adjustment and its calculation. It provides for the proper matching of the various accounts which must be updated to produce a fair result. The Office of Consumer Advocate's adjustments are based on actual known and measurable data which can be employed here without speculation; and the plant involved is already employed in serving PacifiCorp's customers. The WIEC and AARP positions would ignore investments beyond the test year that are actually serving the public and for which orderly, accurate and thorough updates can be made. This would produce an unrealistic result and a substantial disincentive to investment, two byproducts of incorrectly applied regulatory theory.

#### Rate Base: Plant Held for Future Use

55 a. The Office of Consumer Advocate proposed excluding from rate base

some items of plant held for future use in addition to the amounts of such plant voluntarily excluded by PacifiCorp. The Office of Consumer Advocate applied three criteria to analyze the plant it proposed for exclusion, stating that plant should be excluded if: [i] the anticipated use date “has long passed,” [ii] there is “no definitive time line for the future use of the plant,” or [iii] the facilities are not anticipated to be used “within a few years of the end of the test year.” The analysis resulted in the proposed exclusion of an additional \$50,820 from rate base. (Office of Consumer Advocate Exhibit 4, p. 12, and material cited.) PacifiCorp did not rebut this issue in the hearing but urged its rejection in its brief. (Tr., *passim*; and PacifiCorp Brief, p. 36.)

55 b. The Office of Consumer Advocate criteria articulate the used and useful principle as it would apply to plant held for future use. We accept this essentially uncontested adjustment to rate base as a proper exclusion of additional small amounts of plant for which the use in serving the public has not been adequately proven.

#### Rate Base: The Trojan Nuclear Plant

56 a. WIEC proposed the elimination of unrecovered plant investment and decommissioning costs related to PacifiCorp’s small ownership interest in the Trojan nuclear plant on the premise that it was never built. (WIEC Exhibit 2, p. 14.) PacifiCorp showed that the plant had been constructed and that it served the public for a number of years before going out of service. (PacifiCorp Exhibit 43, p. 2-5.) WIEC withdrew the proposed adjustment, (Tr., pp. 378-379.)

56 b. The proposed adjustment is rejected.

#### Rate Base: Cash Working Capital

57 a. PacifiCorp sponsored a lead-lag study which indicated a net revenue lag of 8.5 days in Wyoming resulting in a cash working capital requirement of \$8.1 million allocated to Wyoming. (PacifiCorp Exhibit 43, p. 5.) Both AARP and WIEC proposed that the study should recognize a cash “lead” in connection with the payment of preferred stock dividends and interest on long term debt. WIEC stated that two commissions had adopted such a proposed adjustment. (Tr., pp. 386, 424 and 852.) PacifiCorp opposed the adjustment, arguing, *inter alia*, that these monies should not be recognized in a cash working capital calculation and that, if they were, there should be a corresponding adjustment for the lag involved in the receipt of operating income, noting that the “common practice is to assume that these adjustments are offsetting” and should be ignored for rate making purposes. (PacifiCorp Exhibit 43, pp. 7-8; and FERC NOPR cited there.)

57 b. We reject the proposed adjustment. Although we will not indulge in comparative rate making in this case, we note that only two regulatory commissions have adopted a WIEC/AARP-style adjustment. We consider the money received by a utility for preferred stock dividends and interest on long term debt to be the utility’s money at that point rather than rate payer money which could be justified theoretically as useful in the calculation of cash working capital. Therefore, and without a corresponding operating

income “lag,” the proposed adjustment would distort the company’s cash working capital needs and should be denied. We note that the Federal Energy Regulatory Commission also approves this conceptual treatment of the issue. [Commissioner Furtney dissents with respect to the majority’s decision on this issue. See the attached partial concurrence and dissent.]

#### Rate Base: Prepayments

58 a. WIEC advocated eliminating prepayments from rate base for certain premiums, fees and taxes which were recorded by PacifiCorp in FERC Account 165 on the premise that they are already accounted for in the company’s lead-lag study, and that not eliminating them from Account 165 would result is a double recovery from rate payers. (WIEC Exhibit 2, pp. 18-19.) PacifiCorp argued that the prepayments in this account are not included in the calculation of the expense lag in PacifiCorp’s lead-lag study, stating that prepaid regulatory commission fees would have essentially no effect on the calculation, with its effect being lost in rounding. (PacifiCorp Exhibit 43, pp. 8-9.) WIEC offered to change its adjustment to reflect only prepaid regulatory commission fees. (Tr., p. 379-380.)

58 b. We will reject WIEC’s proposed adjustment. The great majority of it was shown, in light of the PacifiCorp rebuttal case, to be without factual basis; and we accept the premise that the small remainder of the adjustment would have a *de minimis* effect on this case, disappearing in rounding.

#### Rate Base: The Gadsby Combustion Turbines

59 a. PacifiCorp purchased a new combustion turbine unit from General Electric to replace older units which it was leasing from that company. WIEC proposed to diminish PacifiCorp’s investment in the Gadsby combustion turbine by \$7.5 million because PacifiCorp was able to avoid paying this amount to General Electric under its lease of older gas peaking units when that lease was terminated. WIEC reasoned that the \$7.5 million amounted to a reduction in the purchase price of the newer unit at Gadsby and that rate base should be reduced by that amount. (WIEC Exhibit 1, p. 49.) PacifiCorp argued that it was not given a choice to take a \$7.5 million rebate on the new unit, noting that General Electric would likely prefer receiving the full price for the new unit and terminate the lease early to allow the older units to be leased to others. A purchase price reduction would have meant an immediate \$7.5 million loss to General Electric, the purchase of the new units was an amply justified and economical alternative, and the investment in the Gadsby unit is already in rate base and reflects actual costs. PacifiCorp urged that these transactions do not give rise to any conflict of interest. (PacifiCorp Exhibit 43, pp. 11-12; and Tr., pp. 326-327.)

59 b. This proposed adjustment is rejected. PacifiCorp has adequately described the actual Gadsby transactions and the economic realities behind them. The early termination of the peaker lease was an inducement to PacifiCorp to purchase the newer unit from General Electric, and it appears that PacifiCorp paid for the new unit and paid through the lease for the use it received from the older units. The hypothetically

conjoined transaction which amounts to a “price concession” by General Electric was not demonstrated beyond the level of theory and surmise. Rate base should not be adjusted in this situation.

#### Accounting Adjustments: EEI Membership Dues

60 a. PacifiCorp’s case inadvertently included 15 months of dues expense for its Edison Electric Institute membership. PacifiCorp removed the additional three months of dues, reducing expenses and the Wyoming rate increase. (PacifiCorp Exhibit 44, p. 14.) No party contested this adjustment.

60 b. We approve the correction.

#### Accounting Adjustments: Insurance Expense -- Actual Premiums

61 a. PacifiCorp’s original proposed adjustment for insurance expense relied on estimated figures because it had not yet finalized its insurance purchases for 2004. (See, PacifiCorp Exhibit 9.) By September 30, 2003, these insurance placements had been completed and actual data was available. PacifiCorp testified that the actual costs were about \$1.8 million less than the earlier estimates, resolving questions about their magnitude. (Tr., pp. 999-1000; and PacifiCorp Exhibit 44, p. 15.) The Office of Consumer Advocate in testifying to its proposed adjustments to insurance expense, agreed with the use of actual premium expense data for the period ending September 2003. (Tr., pp. 648-649.)

61 b. We accept this update as a necessary adjustment to remove estimated data from the rate case in favor of actual figures which portray insurance expense to be experienced when the rates set in this case are in effect.

#### Accounting Adjustments: Insurance Expense -- Uninsured Loss Reserve

62 a. PacifiCorp advocated a \$10 million reserve for uninsured losses, citing higher deductibles, the refusal of insurers to cover certain risks and the loss of some coverage. For PacifiCorp, Ms. Cartwright described some of the insurance challenges PacifiCorp faces, stating that:

“We have broad categories of assets that are completely excluded. We no longer have insurance for our transmission and distribution system. We do have coverage for the substations, but not the poles and wires. And that is just -- it’s not available in the world. So it’s not cost prohibitive or just an election that we have made not to have it. You cannot get it.” (Tr., p. 190.)

Later, she discussed the “others” category, which PacifiCorp offered in support of an additional \$3.7 million of potential loss events for which PacifiCorp sought to establish a reserve. They include the restriction of coverage regarding replacement value, restrictions regarding electromagnetic field claims, restricted asbestos coverage, new technology restrictions (such as the West Valley LM 6000 turbines) relating to manufacturing defects, aging plants with the related factor of increasing loads such as those on the Wasatch front

in Utah, and the addition of new generating capacity. (Tr., pp. 1004-1008.) Other parties opposed the adjustment arguing that the \$3.7 million was uncertain and did not meet the known and measurable standard, but was meant to cover potential problems that might or might not occur. WIEC argued that the actual loss experience of PacifiCorp did not illustrate a trend toward increasing uninsured losses. It also asserted that deferral and amortization on a case-by-case basis was a more common method of addressing such uninsured losses than establishing a fund to be held until a loss is experienced. (Tr., pp. 397-398.) Of the \$10 million PacifiCorp proposal, the Office of Consumer Advocate opposed the \$3.7 million adjustment, “. . . because of the lack of explanation in the testimony that relates to any known and measurable facts and that the facts provided are quite speculative.” (Tr., pp. 649-650.)

62 b. We accept PacifiCorp proposal, except for the \$3.7 million “others” loss reserve. This portion of the adjustment is too speculative and unsupported. It is not known or measurable.

#### Accounting Adjustments: Pension Expenses

63 a. PacifiCorp originally proposed to base its pension expense adjustment on a five-year average and to track the payment of these expenses on a dollar for dollar basis, thus instituting a balancing account mechanism for pension costs. On rebuttal, PacifiCorp withdrew this proposal and substituted a request for pension expenses in the amount of \$14.8 million, based on 2004 actuarial data, plus \$5 million to cover contributions to the union pension fund of IBEW Local No. 57. PacifiCorp stated that pension expense for fiscal 2004 was \$14.8 million and that its contributions to the union pension fund would be paid in a matter of weeks in the amount of \$5.6 million. (Tr., pp. 965-960 and 968, and exhibits cited.) Although neither AARP nor WIEC took issue with this proposal (Tr., pp. 850, and 381-382), the Office of Consumer Advocate did, proposing that actual fiscal year 2003 pension expenses be used in this case. The Office of Consumer Advocate noted that this conservative actual data adjustment contained payments to the union pension fund, thus obviating the need for a separate adjustment. (Tr., pp. 651-653, and Office of Consumer Advocate Exhibit 4, pp. 18-19, and Office of Consumer Advocate Exhibit 7.)

63 b. We accept the Office of Consumer Advocate’s proposed adjustment. It applies known and measurable data for a period which, unlike the actuarial data offered by PacifiCorp, does not extend substantially beyond the test year or the pro forma adjustment period used generally in this case, providing a better match between pension expense, including relevant actual union payments, and other data applied in this case. [Commissioner Furtney dissents with respect to the majority’s decision on this issue. See the attached partial concurrence and dissent.]

#### Accounting Adjustments: Payroll Increases

64 a. WIEC took issue with PacifiCorp’s payroll increase adjustment because union contracts had not been ratified and thus contained an element of uncertainty. (WIEC Exhibit 2, pp. 22-23.) PacifiCorp stated on rebuttal that the contracts had been

ratified at the wage levels included in PacifiCorp's original calculation. PacifiCorp found agreement that these numbers were acceptable. (PacifiCorp Exhibit 44, pp. 7-8, and exhibits cited; and Tr., p. 1245.)

64 b. We adopt this now uncontested adjustment as presented by PacifiCorp. The payroll increases, now with reference to the ratified union contracts, are now known and measurable and suitable for use for ratemaking purposes. [Commissioner Furtney dissents with respect to the majority's decision on this issue. See the attached partial concurrence and dissent.]

#### Accounting Adjustments: Employee Benefit Expense

65 a. PacifiCorp's application in this case reflected an employee benefit level of \$65 million while the actual pension expense experienced for the fiscal year ended March 2003 was \$61 million. Stating that, at the time of the hearing, PacifiCorp's 2004 fiscal year was about 75% complete, PacifiCorp explained the derivation of the \$65 million figure:

"[A]t the time the company prepared the filing, that \$65 million number was an average of the fiscal year '03, which ends March 2003, and fiscal year '04 benefits. We averaged those together to come up with \$65 million." (Tr., p. 1246.)

The OCA argued that the fiscal 2004 figures were estimates and should not be used to determine this adjustment, stating that the:

"... theme of trying not to use estimates without hard data is the primary reason I make this adjustment, is that the company takes an average of fiscal year 2003 and fiscal year 2004. And the 2004 is based on a budget number, and it's based on a budget number that came out of the human resources department. It's unlike the wages that have union contracts behind them and have board minutes behind them and such. This is simply an estimate." (Tr., p. 656.)

WIEC would allow some leeway, but also found that PacifiCorp's benefits estimates went too far beyond the test year, and beyond the pro forma adjustment period, to be acceptable. (See, Tr., p. 392.)

65 b. We accept the Office of Consumer Advocate's suggested level of employee benefit expense. It is actual data of a recent date and therefore not in any way speculative. It provides known and measurable information for the rate making process. [Commissioner Furtney dissents with respect to the majority's decision on this issue. See the attached partial concurrence and dissent.]

#### Accounting Adjustments: Incentive Compensation -- Sharing

66 a. Part of PacifiCorp's employee compensation package is made up of incentives for meeting various goals set at different levels of organization on the individual (50%), business unit (30%) and corporate (20%) levels. PacifiCorp recommended that 5% of the overall incentive package should be considered related to shareholder rather than rate payer benefit and therefore excluded for rate making

purposes. (PacifiCorp Exhibit 30, pp. 3-5.) WIEC recommended that half of the incentive compensation package should be excluded. (WIEC Exhibit 2, p. 26, and Tr., p. 395.) AARP recommends a similar adjustment, determining, however, that the disallowance should be set at 40%. (AARP Exhibit 1, attached exhibit RJB-4, p. 2.) The exclusions are based on the premise that the business unit and corporate incentives, which total 50%, are primarily of benefit to shareholders rather than rate payers. WIEC observed that, “[b]y tying incentive payments to financial performance, PacifiCorp made the financial success and enhanced shareholder wealth significant objectives for [its incentive plan].” In the absence of the ability to make a clear identification of the individual performance elements that make up the total assumed incentive payment, and in view of the fact that corporate financial performance plays a significant role in corporate and business unit incentives, WIEC recommended that 50% of the incentive compensation expense should be excluded from this case. (WIEC Exhibit , p. 23-26.) AARP reviewed PacifiCorp’s “performance report cards” and recommended that 40% of the total be disallowed. (Tr., p. 851.)

66 b. We adopt the WIEC adjustment as a fair and reasonable sharing of the value of the incentive program between the rate payers and PacifiCorp’s shareholders. This tracks the most prominent divisions of the plan, and fairly allows for the situations in which program elements might benefit both shareholders and ratepayers. PacifiCorp’s 5% proposal was not adequately supported by evidence showing shareholder-related incentives reduced to this level.

#### Accounting Adjustments: Incentive Compensation -- Dollar Value

67 a. PacifiCorp determined the recommended dollar value of its incentive compensation program by averaging the budgeted (i.e., forecast) incentive payment levels for fiscal years 2003 and 2004, producing a request of \$36.5 million which it found to be conservative in view of the accrued and recently paid actual incentives. (See, PacifiCorp Exhibit 46; and Exhibit 30, pp. 5-6.) The Office of Consumer Advocate found the PacifiCorp proposal to be “significantly higher” than the incentive amounts paid in recent years. In view of this disparity, the Office of Consumer Advocate relied on historical data on incentive payouts in recent years, excluding 2001 during which the payments were abnormally small. It averaged the actual payout data for 1999, 2000 and 2002, deriving a recommended value for this case of approximately \$27 million. (Office of Consumer Advocate Exhibit 4, pp. 22-23; and PacifiCorp Exhibit 46.)

67 b. We will accept the Office of Consumer Advocate’s proposal because it relies on known and measurable historical figures and provides an average that excludes the abnormally small payouts made in 2001. [Commissioner Furtney dissents with respect to the majority’s decision on this issue. See the attached partial concurrence and dissent.]

#### Accounting Adjustments: FICA Correction

68 a. PacifiCorp identified and corrected an error which overstated FICA expense by \$374,695. (PacifiCorp Exhibit 44, p. 14.)

68 b. We accept this uncontested correction.

#### Accounting Adjustments: Property Taxes

69 a. PacifiCorp proposed a normalized property tax adjustment which would add \$2.6 million to the actually experienced level of property tax for the test period, for a total proposed adjustment of \$70 million. About \$2 million of the increase relates to the addition of West Valley turbines and PacifiCorp's obligation to pay property taxes under the relevant leases. Comparing the tax rates applied to September 2002 and September 2003 plant balances, PacifiCorp characterized the suggested normalizing adjustment as conservative. The trend in tax liability is upward. (See, PacifiCorp Exhibit 47, and Exhibit 44, p. 6.) WIEC sought to eliminate the increase in property taxes terming the PacifiCorp proposal to be 2004 budgeted figures rather than actual numbers. (WIEC Exhibit 2, pp. 35-36.)

69 b. PacifiCorp has presented a reasonable adjustment which normalizes property taxes and accounts for the increased tax liability associated with the West Valley Turbines. It is in fact conservative in light of the company's September 2002 and 2003 plant balances, and in light of our previous experience with such adjustments. We have accepted such tax normalizing adjustments in the past and will not reject it here.

#### Accounting Adjustments: Outside Services Expenses

70 a. The Office of Consumer Advocate found that test year outside services expenses represented an anomaly for 2002, with the expense for that year being 20% higher than 2001, itself the highest level of such expenditures in seven years. In light of this, the Office of Consumer Advocate made a normalizing adjustment, averaging the actual expenditures for 2000 through 2002 and producing a result of over \$46 million which it rounded up to \$47 million to ensure a conservative result and to recognize that ". . . there are a number of major regulatory activities and litigation activities that are likely to continue into the time that rates from this case are in effect." (Office of Consumer Advocate Exhibit 4, pp. 24-25.) AARP advocated a reduction based on an interpolation of calendar year 2000 and fiscal year 2003 numbers to adjust ". . . to a level that reflects the trend in recent years." (AARP Exhibit 1, pp. 23-24, and attached exhibit RJB-4.) PacifiCorp agreed to adopt the Office of Consumer Advocate's suggested adjustment as "a reasonable solution" and updated its filing to reflect this result. It stated that the derivation of the AARP's proposal was unclear. (PacifiCorp Exhibit 44, p 11.)

70 b. We accept the Office of Consumer Advocate's adjustment as a reasonable normalization based on actual experience which removes the effects of possibly anomalous experience while taking into account ongoing PacifiCorp activities which will give rise to outside services expenses. Having done so, we will reject AARP's proposed interpolation as not addressing the issue as comprehensively. Some observations have been made in this case about the similarity of the value of this adjustment to that of a similar adjustment in a recent Oregon case. The similarity should be viewed only as a coincidence and not an indication that the Commission will hereafter engage in comparative rate making.

### Accounting Adjustments: Little Mountain Steam Revenues

71 a. PacifiCorp corrected its case to account properly for the steam revenues from IMC Kalium, reducing the requested revenue increase by \$282,186. No party contested this adjustment, and the Office of Consumer Advocate argued for imputation of revenue, noting that WIEC also raised this issue. (PacifiCorp Exhibit 44, p. 13; Tr., *passim*; and Office of Consumer Advocate Exhibit 1, pp. 22-23.)

71 b. We accept this uncontested correction to PacifiCorp's case.

### Accounting Adjustments: The WAPA Wheeling Contract

72 a. PacifiCorp provides wheeling services for Western Area Power Administration customers under a 1962 contract. WIEC sought to impute revenues in this case with respect to the contract, arguing that:

“ . . . in keeping with the treatment of this contract in other jurisdictions, I recommend imputation of additional revenue because this contract is an 80-year contract. It had no price escalators built in and regulators in other states have imputed higher revenues to reflect what would have happened had the price escalators been put in.” (Tr., p. 281.)

WIEC based its imputation on the current applicable FERC wheeling rate as applied by Utah regulators and a similar issue imputing revenue in Oregon, offering no additional justification beyond this acceptance in other jurisdictions. (Tr., pp. 320-322.) The Office of Consumer Advocate found the lack of a price escalator to be imprudent and argued that an imputation on the basis of the formula developed in Utah should be adopted to replace the fixed rate for the contract. (Office of Consumer Advocate Exhibit 1, pp. 23-24.) PacifiCorp argued that the contract has provided revenue since its inception, including \$2.2 million in the test year. It represented about 3% of “firm system capability” and returned more than the estimated \$750,000 yearly maintenance expense associated with it. PacifiCorp argued that, because the assets used were over 40 years old and “largely depreciated,” the contract also effectively contributes to the reduction of the revenue requirement on a small increment of rate base. PacifiCorp argued that the contract “. . . was not intended to recover the fully loaded system costs decades into the future. It was intended to pay a reasonable share of the capital and operating costs for a specific line.” (PacifiCorp Exhibit 43, pp. 12-13.)

72 b. We reject the WIEC/Office of Consumer Advocate proposal. The WAPA wheeling contract term began in 1962, and we will not now, 42 years on, start to remake it. The contract is too old for us to look back and make a reasonable analysis of the prudence of entering it, especially in view of the nature of the parties, the limited scope of the contract and the modest contribution to reducing the revenue requirement. We suspect that the company was driven by considerations other than simply maximizing its profits when it entered into this 80-year agreement with the Western Area Power Administration in 1962, but that must remain speculation, as would any adjustment that sought to establish the contract as somehow imprudent at this late date. We reiterate

that we will not engage in comparative ratemaking.

#### Accounting Adjustments: Consolidated Tax Savings

73 a. WIEC noted that PacifiCorp and related companies file a consolidated federal income tax return to minimize income taxes. NA General Partnership files a consolidated return on behalf of PacifiCorp and its corporate affiliates, bringing together the tax losses of certain companies with the taxable income of other companies, notably PacifiCorp, to establish a net amount on which federal income tax is due. WIEC found these savings to be quite substantial and argued that the revenue requirement should be adjusted downward to recognize the tax savings PacifiCorp enjoys as a result of this method of filing, noting that the PacifiCorp case was prepared by applying the statutory 35% tax rate and arguing that the Internal Revenue Service would allow adjustments for consolidated tax savings. WIEC stated that regulatory commissions in Pennsylvania, New Jersey and West Virginia have required such consolidated tax savings adjustments. (WIEC Exhibit 2, pp. 36-43.) PacifiCorp opposed the adjustment noting that the Commission has used stand-alone calculations in the past, before and after the PacifiCorp/ScottishPower merger, and that PacifiCorp has participated in consolidated income tax filings before and after the merger. PacifiCorp noted that paragraph 20 of the Stipulation (PacifiCorp Exhibit 13) accompanying the Commission's order of November 19, 1999, approving the PacifiCorp/ScottishPower merger in Docket No. 20000-EA-98-141, called for "ring fence provisions" to isolate affiliate operations from the regulated utility. It testified here that "PacifiCorp has taken steps, encouraged and approved by the Commission, to maintain separation of its utility operations for the benefit of ratepayers." PacifiCorp argued that the WIEC adjustment ignores the functional separation of PacifiCorp from its affiliates, ignores regulatory cost causation principles, ignores PacifiCorp's tax losses in 2002, and would lopsidedly assign risks to shareholders and benefits only to rate payers. PacifiCorp also argued that, because it is consistently audited by the Internal Revenue Service as a major case taxpayer, the adjustment would not take into account the finally determined tax liabilities resulting from these reviews. (PacifiCorp Exhibit 34, pp. 1-8.)

73 b. We reject WIEC's proposed adjustment. It is contrary to our past treatment of the issue; and it would begin breaking down the separation of the utility from its affiliates which we have carefully maintained in the past. In addition to the "ring fence provisions," the Stipulation contained a number of provisions preventing the assertion of bars to the jurisdiction of the Commission to examine affiliate transactions. The goal of these provisions was not to bring unregulated affiliates into the ambit of Commission regulation but to allow the Commission to satisfy itself that affiliate transactions did not negatively impact the utility or its rate payers. Paragraph 25 of that Stipulation, as approved by the Commission states this clearly: "Applicants agree not to cross subsidize between regulated and non-regulated businesses or between regulated businesses." We will not increase the ambit of our regulation to include the routine examination of issues of affiliate earnings and tax liabilities as they might otherwise be made to bear on PacifiCorp's rates. We will continue, as needed, to examine affiliated company issues, but, without more showing, will do so in the context of our jurisdictional task of examining and regulating utility companies operating in Wyoming. We note favorably the comment of

the Federal Energy Regulatory Commission in *In Columbia Gulf Transmission Company*, 23 FERC ¶ 61,396, 54 PUR 4th 31 (1983), offered by PacifiCorp in its Brief in this case at 60, which found the necessity of allocating tax deductions by matching them with the expenses included in the cost of service. Were we to do otherwise, we would begin dismantling the PacifiCorp ring fences and the necessity of doing this has not been shown.

#### Accounting Adjustments: International Assignees

74 a. AARP advocated an adjustment to account for the return of a number of employees to the United Kingdom, [i] removing their salaries, benefits and related expenses from PacifiCorp's rates because they no longer work in United States utility operations, and [ii] likewise, removing these individuals from PacifiCorp's employee counts for this case. (AARP Exhibit 1, p. 24, and attached exhibit RJB-4, p. 5.) PacifiCorp accepted the adjustment updating its case to account for the "known and measurable" effect thereof. (PacifiCorp Exhibit 44, p. 10, and PacifiCorp Exhibit 45.)

74 b. This agreed to known and measurable adjustment is accepted as shown on PacifiCorp's Exhibit 45.

#### Accounting Adjustments: Remaining Adjustments

75 a. PacifiCorp identified a number of other required adjustments which flow not from controversy in this case but from the determination of other issues by the Commission. They include "Revised Interest Synchronization" and the "Cross-Impact of Rate Base Reductions to Return on Equity," which depend on plant additions, cash working capital and the authorized return on equity determined above. "Match Payroll Taxes to Wages" depends on the resolution of incentive compensation issues. "Cash Working Capital" will be recast on the basis of changes to operation and maintenance expenses. "Unreconciled Difference" will be resolved (i.e., reconciled) on the basis of the direction given by the Commission on the outstanding issues in the case. (See, PacifiCorp Exhibit 45; and PacifiCorp Brief, pp. 60-61.)

75 b. We accept that these issues will be determined on the basis of the guidance given by the Commission on the related contested issues. Their determination is a mathematical exercise to be examined simply for accuracy.

#### Other Issues: Fuel Costs for Coal Fired Generation

76 a1. Dr. Sadrul Ula, Professor of Electrical Engineering and Director of the Wyoming Motor Training & Testing Center and the University of Wyoming Utility Consortium, testified *pro se*, challenging the level of coal costs in the case. Ula testified that PacifiCorp paid inflated prices for the coal at three of its four Wyoming power plants, based on information for 2000 provided by the United States Department of Energy's Energy Information Administration. He compared data and showed statistical disparities in coal costs on a Wyoming and United States basis. Ula found a particular disparity in the cost of coal for the Wyodak and Neil Simpson II plants which are both located in proximity to the same coal supply but for which they pay 78¢ and 44¢ per MMBTU,

respectively. He described the Laramie River Station as the lowest cost producer of electricity “. . . in the US for over 20 years,” and as an example which might attract other generation projects to the state, alleging that PacifiCorp may discourage such construction. Ula also found the cost of coal to be higher than the average delivered price of Wyoming coal to plants in Nebraska and North Dakota. He made a number of other points concerning planning for future generation needs and for transmission needed to solve bottlenecks in the region. (Ula Exhibit 1, pp. 1-3, and attached exhibits 1-6 and 11.)

76 a2. PacifiCorp responded with the testimony of Neil Getzelman, terming Ula’s comparisons misleading because the company plants have different coal supplies and transportation characteristics. The ability of the various plants to burn Powder River Basin coal also differ, and the cost of either retrofitting the Jim Bridger and Naughton plants to burn this coal efficiently or derating them to burn the coal would be substantial. PacifiCorp asserted that Ula’s comparison was also flawed because it was based on the price of Powder River basin coal in 2000 when it was at an all time low. Regarding the actual cost of the coal, PacifiCorp argued that Ula, in relying on FERC Form 1 data (the the underlying source for the United States Department of Transportation EIA data), did not account for the fact that the profit component for Bridger Coal company is excluded from the costs actually recoverable from customers in rates. PacifiCorp asserted that actual fuel expenses for Bridger were 20% to 30% lower than the figure Ula stated. Regarding Wyodak, Ula is said to have failed to recognize coal price reductions negotiated by PacifiCorp in 2001 and that the comparative plant (Neil Simpson) does not obtain coal under an arms-length agreement. PacifiCorp also argued that its efforts to control coal costs have been successful. PacifiCorp summed up, saying that “. . . when analyzed correctly, the Bridger and Naughton plants are cheaper than the hypothetical used by Dr. Ula. As shown in my exhibits the allegation of a billion dollars overcharging is completely unfounded.” (See, e.g., PacifiCorp Exhibits 22-27; and Tr., pp. 901-915.)

76 b. We believe that Dr. Ula raised and illustrated serious questions about the PacifiCorp coal supply in Wyoming and that PacifiCorp answered seriously and thoroughly to the point that we do not believe that Dr. Ula’s points have been proven sufficiently to be considered as the basis for adjustments to the outcome of this case. His data also does not have a sufficient connection to the test year to provide a basis for assessment of test year data. However, if the Office of Consumer Advocate wants a formal investigation of PacifiCorp’s coal costs, it is free to request that the Commission establish one.

#### Other Issues: Further Filings and Showings

77 a. For the Office of Consumer Advocate, Ms. Norby advocated further showings by PacifiCorp to ensure an accurate result in this case. She stated:

“The OCA recommends that the Company be required to recalculate the cost of service and submit the resulting rates in a compliance filing to account for the adjustments to its proposed rate base, revenue requirement, and expense levels adopted by the Commission in its decision. The OCA recommends that the Company be required to file a compliance filing consisting of the cost of service study and model (in disk form), as well as the appropriate tariffs before the Commission determined effective date.” (Office of Consumer Advocate Exhibit 12, p.26.)

She also reminded the parties that, in regard to changing rates in year one (December 31, 2004) and two (December 31, 2005) of the rate parity plan presented in this case, that PacifiCorp will be required to file a compliance filing illustrating the rate changes absent any general rate case in those years, stating that:

“Pursuant to the Stipulation and Agreement in Docket 20000-ER-02-184, requests for revenue neutral changes in rates related to the rate parity plan will be filed with the Commission and is subject to review.” (Office of Consumer Advocate Exhibit 12, pp. 23-24.)

77 b. We agree that the detailed showing requested by the Office of Consumer Advocate in this case should be provided by PacifiCorp to allow for a complete examination of the result of the decision in this case. The reporting requirement with respect to the rate parity plan remains useful and in full force.

#### Presentations and Statements of Position by Other Intervenors

78. Douglas J. Pavlick of Green River, Wyoming, spoke as an employee of OCI Chemical Corporation, intervenor herein, and on behalf of the soda ash industry, comprised of OCI, FMC, Solvay Chemicals, and General Chemical. He commented on the negative impact that PacifiCorp’s rate increase would have on the soda ash industry, citing the pressures of increasing overseas competition, *inter alia*, from China, as having a negative effect on the soda ash industry. Pavlick stated that it was difficult to pass onto the customers the increases proposed by PacifiCorp. He further noted that the soda ash industry is a large consumer of electricity, and that increasing electricity rates have caused the soda ash industry to lose its ability to reinvest. Without the option to pass along the increased cost of electricity to customers or the ability to reinvest, combined with what he found to be PacifiCorp’s repetitive rate cases, the soda ash industry has suffered numerous layoffs in recent years. Pavlick suggested that PacifiCorp’s health care costs should not be passed along to its rate payers and suggested that an increase in the return on equity to 11.5% was not necessary. Pavlick argued that:

“[O]ur industry’s economic vitality and competitiveness is being eroded by a monopoly supplier that does not recognize that its actions in bringing these repetitive rate cases are damaging the industries and citizens that make up this great state of Wyoming.”

(Evanston Hearing, Tr., pp. 48-51.)

79. Councilwoman Renee Burgess appeared for the Intervenor, City of Casper and the Casper City Council. She noted that PacifiCorp was a “. . . valued employer and a tax contributor to the state of Wyoming,” and expressed her concern over how increased electrical rates would impact the rates charged to each consumer in the future by the city for utilities and other city services which are dependent on electrical power. She asked that the Commission take a balanced view of the case and consider all aspects of a rate increase, including the impact it will have to the city and its individual citizens, especially including those citizens over 50 and those on fixed incomes. (Casper Hearing, Tr., pp. 36-37.)

80 a. Kent Hessenthaler testified for the Intervenor Irrigator Group. He noted that irrigators would bear disproportionate increases, stating that:

“. . . our biggest concern is the actual rate design for the small irrigators. Last year, we had a 48 percent increase was our average increase for the small irrigators. Using the rate design last year, not even calculating in any changes at all this year, the rate for next year will be an additional 18.3 percent rate of increase. The following year, 2004-2005, will be 15.4 percent increase; 2005-2006, an additional 13.4 percent increase. That would give a five-year increase of 128.8 percent, which makes the small farmer almost obsolete.”

Hessenthaler contrasted the rising per acre cost of irrigation with the per acre returns that could be expected, and the possibility that small irrigators would have to cease operations in the near future. (Casper Hearing, Tr., pp. 39-40.) At the public hearing in Cheyenne, the Commission received Washakie County Irrigators Exhibit 1, a January 19, 2004, letter from a group of PacifiCorp customers in the Worland, Wyoming, area who use substantial amounts of power for irrigation of farm land. Their concerns were similar to those of the Irrigator Group, centering on the large increases proposed for irrigation customers and the difficulty of covering the cost of the increases while remaining in business. The Washakie County group noted that irrigators have been successful in curbing soil erosion and water use under a “favorable power rate structure” which encouraged investment. They found the rate proposals here to be disproportionately harsh. The Office of Consumer Advocate urged the Commission to require PacifiCorp to work with its irrigation customers taking service under Schedule 40 (Wyoming East) and Schedule 210 (Wyoming West) because of the “. . . significant deviations in kW demand used by customers in this class.” The Office of Consumer Advocate found a wide disparity in demand, tending toward the conclusion that the creation of small and large irrigation classes might be justified. There was not enough information for the Office of Consumer Advocate to determine an alternative rate design in this case, so it made the suggestion that PacifiCorp and the irrigators work together to determine whether rates for small and large irrigators can be separated “in a palatable manner that covers the collective class cost of service.” (Office of Consumer Advocate Exhibit 12, pp. 24-25.)

80 b. We do not have sufficient evidence in this case to require a change in rate spread or rate design to address the concerns of these irrigation customers. They and the Office of Consumer Advocate have, however, shown that a problem exists which should be discussed and understood by the company, the irrigators and the Commission. We will direct PacifiCorp to meet with its irrigation customers, discuss the problems, explore possible ways to alleviate the problems and report its findings to the Commission in an open public forum within four months of the date of this order. The report should include both oral and written presentations and the discussion must include the considerations described and advocated by the Office of Consumer Advocate.

81. Bill Marsh, of Torrington Wyoming, former Wyoming state president for the Intervenor AARP, offered comments on behalf of the Intervenor AARP in opposition to the requested rate increase. He stated that AARP was willing to pay rate increases to cover PacifiCorp’s appropriate costs but was not willing to pay more than what was necessary to provide safe and reliable electric service. He expressed concern for the needs of elderly persons on fixed incomes for which rate increases could be particularly difficult.

(Casper Hearing, Tr., pp. 51-55.)

82. Harold Giberson of Rock Springs, Wyoming, President of the Utility Workers Union of America, Local 127, testified for the Intervenor UWUA in favor of the requested rate increase. He stated that the insurance rates that PacifiCorp employees pay has doubled in the last two years. He stated his belief that, if the Commission had approved more for PacifiCorp in the preceding rate case, PacifiCorp would have been able to start building a new power plant, which would have provided for more jobs in Wyoming and which would address large demands for power. (Casper Hearing, Tr., pp. 79-80.)

*Pro se statements by members of the public*

83. The Honorable Mark Harris, Mayor of Evanston, thanked the Commission for holding a public hearing in Evanston, noting that, unlike a year ago, the City of Evanston is not intervening in this case, explaining that he had discussed the ramifications of this case, and the rate relief sought, with the Evanston City Attorney. Mayor Harris also specifically thanked the Commission and the parties for working towards rate parity throughout PacifiCorp's service territory in Wyoming. (Evanston Hearing, Tr., p. 5.)

84. Jeanine Cox of Rock Springs, Wyoming spoke against the increases, noting the negative impact of an electric utility rate increase on senior citizens living on fixed incomes. She further questioned how to get better information on utility rate matters. Although notice of all rate cases are published in newspapers and broadcast on radio stations, Cox observed that not all senior citizens notice the Commission's newspaper and radio notices of upcoming rate proceedings. In her opinion, if information of those rate proceedings were to be affirmatively placed in senior citizens centers, the information would be more readily available to senior citizens to inform them of future proposed rate increases and make them feel more included and engaged in the process. PacifiCorp noted that PacifiCorp included a bill stuffer in its customer's bills, which provided additional information concerning the current rate case. (Evanston Hearing, Tr., pp. 52-59.)

85. Donna Budrow, outreach coordinator at the Young At Heart Senior Center in Rock Springs, Wyoming, spoke in agreement with Cox's comments, questioning the print size of the bill stuffers included in PacifiCorp's customer's bills. In response to this, PacifiCorp stated that the print size was a 10 or 12 point, which PacifiCorp noted, was similar to common print sizes in newspapers. (Evanston Hearing, Tr., pp. 59-60.)

86. Gary Ellingford of Evanston, Wyoming, spoke against the increases stating that PacifiCorp's poor customer service and response time to requests for services did not justify the proposed rate increases. He stated that after the company had removed a transformer from a property which he is developing, he had to pay to replace it but did not own the new transformer. Ellingford expressed his concern that the transformer was an asset for which PacifiCorp would make a 10 or 11 percent rate of return based on the money he had paid for the transformer. Ellingford offered numerous examples of poor customer service he had received and described his frustration that PacifiCorp has

continued to close local offices, which has resulted in fewer personnel to serve the area, in the face of which the company has requested another rate increase. He noted that the Evanston office formerly employed three estimators but that it now has only one, which has resulted in a slower response time to customer service requests. He stated his view that PacifiCorp should maintain a business office in each community in which it provides services. PacifiCorp responded to Mr. Ellingford's concern with regard to the rate of return on the transformer, explaining that PacifiCorp does not earn a return on that investment, but rather, the contribution in aid of construction is necessary to cover a portion of that asset's cost and is used as an offset to reduce the company's rate base. (Evanston Hearing, Tr., pp. 62-72, 104.)

87. Henry Hewitt of Rawlins, Wyoming, voiced his concerns for the impact that rate cases will have on Wyoming's economy in the future. He acknowledged that the price of gas has gone up for power companies, which must be passed on to the customers. Hewitt stated that, while he agrees with the Intervenors' position against rate increases, he is concerned that there has been no solution offered as to who will eventually pay for the rate increase as well as who will represent the younger generation. He stated that he believes that the younger generation will eventually bear the burden of these rate increases. Hewitt stated that, in his opinion, PacifiCorp has a greater impact in Wyoming than in other states in which it serves, that it provides strong economic development resources and that it should be supported. He thought that the outcome of this case might have an influence on PacifiCorp's investment decisions and said that Wyoming should support the Company. Mr. Hewitt stated:

"I think that we have an obligation when we're setting rates to look beyond today, to look to the longer future, to the creation of the jobs, to the development of the economy of this state and look at that company and give them what they deserve."

He further stated that the Commission, in PacifiCorp's last rate case, left it to other states to absorb the losses, which resulted from the failure of the Hunter Unit Number 1 and the western energy crisis. (Evanston Hearing, Tr., pp. 75-85.)

88. Dan South of Evanston, Wyoming testified against the rate increase, stating that economic development in his area was hampered by high power rates, and that PacifiCorp has had a rate increase in 2000, 2001, 2003, and now 2004, noting that some other utilities in the state have not raised rates since 1999. South expressed his irritation that customers must call Portland to report any problems with their service, and often times, there is no response to the customer calls. South further spoke of his concerns and particular problems he has experienced with the service he receives from PacifiCorp. South concluded with a favorable comment about the local employees of PacifiCorp in Evanston. (Evanston Hearing, Tr., pp. 91-99.)

89. Richard Bonander of Intermountain Pipe and Threading Company spoke in favor of the requested rate increase stating that electric outages are not just an inconvenience, but can be financially devastating to his business. He described the need for continuous and reliable electric service to his precision machining business. Contrasting the possible rate increase for his business to the cost of losing a single part to

an electrical failure, he concluded that the reliability of service would be worth the additional cost. (Casper Hearing, Tr., pp. 41-45.)

90. Chris Holden of Casper, Wyoming, offered comments in favor of the requested rate increase. She applauded PacifiCorp's community involvement, its role in attracting business to the area, and the improvements PacifiCorp has made to its services. (Casper Hearing, Tr., pp. 46-47.)

91. Bill Miller of Casper, Wyoming, spoke as a retired PacifiCorp employee in favor of the requested increases, expressing his concern that PacifiCorp might not make additional investments in Wyoming, thereby resulting in Wyoming losing potential jobs. (Casper Hearing, Tr., pp. 48-50.)

92. Leo Chernick of Casper, Wyoming, expressed his frustration with AARP and with PacifiCorp, its minimum charge, its disconnection and reconnection policies, and the location of its call centers. He expressed offense at the situation in which, if a minimum charge is not met, PacifiCorp immediately removed the meter. He urged the Commission to regulate PacifiCorp to ensure that the costs of the rate increases are kept at a minimum. Responding to Chernick's comments with regard to removing meters when the minimum charge has not been paid, PacifiCorp stated that the meter would remain in place for a period of twelve months before it is removed. PacifiCorp noted that there are no cases in which it has removed a meter after one month of nonpayment of the base payment. PacifiCorp stated that a request for reconnection could be made when a property is sold, provided that the equipment is safe and meets all safety standard codes. (Casper Hearing, Tr., pp. 56-63, 81-82.)

93. Carol Long of Casper, Wyoming, questioned whether or not PacifiCorp's \$100 million loss was billed to insurance and if that claim was paid. She expressed detailed concerns with the effects of the increase for those living on low and fixed incomes. In response to her question, counsel for PacifiCorp stated that it actually lost \$143 million accountable to Wyoming, but chose to bear some of that loss, and that there was no insurance. (Casper Hearing, Tr., pp. 64-67, 83.)

94. Mike Mathews of Casper, Wyoming, testified regarding the requested rate increase stating that he appreciates all that PacifiCorp has done to keep rates down. He acknowledged the importance of a strong healthy utility and asked the Commission to:

"be open-minded and to think about the implication to the long-term economic health of the state to try to assure that we have a healthy utility earning a fair rate of return for their shareholders so that they're willing to continue to invest their resources in the state to make sure we have reliable service. That will help create jobs in this state and jobs in this state is what's ultimately going to mean the right quality of life for all of us." (Casper Hearing, Tr., pp. 68-71.)

95. Dave Schellenberger of Casper, Wyoming, Chief Financial Officer of Wold Oil Properties, spoke in favor of the requested rate increase, describing the importance of good service, dependability and low rates. He noted that PacifiCorp's rates, even with the requested increase, are still among the lowest in the state. He acknowledged the increases in health care costs, insurance rates, pension costs, and

employee benefits, and the financial impact these increases have on PacifiCorp. He stated: "While higher costs are painful, it does not mean they aren't justified." (Casper Hearing, Tr., pp. 72-75.)

96. Representative Tom Walsh submitted a letter as a citizen of Casper, to be read into the record. In his letter, Representative Walsh spoke of the importance that PacifiCorp:

"... operate in a reliable system and provide excellent service, which requires resources and investment. Both are vital to help prepare Wyoming as a market and business ready state, competitive with neighboring states throughout the region as we vie for new economic development opportunities and support enlargement of existing development opportunities."

Walsh recognized PacifiCorp's community involvement and its commitment to the city of Casper, and he acknowledged that PacifiCorp's rates still remain some of the cheapest in the region. (Casper Hearing, Tr., pp. 76-78.)

#### Legal Standards Applicable in this Case

97. W.S. § 37-3-101 requires that "[a]ll rates shall be just and reasonable, and all unjust and unreasonable rates are prohibited." Similarly, W.S. § 37-3-112, requires that "[t]he service and facilities of every public utility shall be adequate and safe and every service regulation shall be just and reasonable. \* \* \* It shall be unlawful for any public utility to make or permit to exist any unjust discrimination or undue preference with respect to its service, facilities or service regulations."

98. The Commission has broad powers to inquire into the facts surrounding the determination of rates. They include W. S. § 37-2-119, which articulates the "used and useful" test and allows wide latitude in the Commission's investigation of rate-related matters. It states, in part, that:

"In conducting any investigation pursuant to the provisions of this act the commission may investigate, consider and determine such matters as the cost or value, or both, of the property and business of any public utility, used and useful for the convenience of the public, and all matters affecting or influencing such cost or value, the operating statistics for any public utility both as to revenues and expenses and as to the physical features of operation . . . ."

In accord is W.S. § 37-2-122(a), which reinforces the Commission's sound informed discretion in rate making cases. It states:

"In determining what are just and reasonable rates the commission may take into consideration availability or reliability of service, depreciation of plant, technological obsolescence of equipment, expense of operation, physical and other values of the plant, system, business and properties of the public utility whose rates are under consideration."

W.S. § 37-2-120 requires the Commission to afford due process in its cases, stating that:

"[n]o order, however, shall be made by the [commission] which requires the change of any rate or service, facility or service regulation except as otherwise specifically provided, unless or until all

parties are afforded an opportunity for a hearing in accordance with the Wyoming Administrative Procedure Act.”

The Wyoming Administrative Procedure Act, at W.S. § 16-3-107 sets parameters for due process in Commission cases, including the giving of reasonable notice. In accord are W.S. §§ 37-2-201, 37-2-202, and 37-3-106. *See also*, Sections 106 and 115 of the Commission’s Rules.

W. S. § 37-2-121 gives the Commission latitude to determine the actual rates to be charged by a utility, stating, in part, that:

“If upon hearing and investigation, any rate shall be found by the commission to be inadequate or unremunerative, or to be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential or otherwise in any respect in violation of any provision of this act, the commission may fix and order substituted therefor such rate as it shall determine to be just and reasonable and in compliance with the provisions of this act.”

W. S. § 37-2-122(b) gives similar necessary latitude to the Commission regarding utility services, stating that:

“If, upon hearing and investigation, any service or service regulation of any public utility shall be found by the commission to be unjustly discriminatory or unduly preferential, or any service or facility shall be found to be inadequate or unsafe, or any service regulation shall be found to be unjust or unreasonable, or any service, facility or service regulation shall be found otherwise in any respect to be in violation of any provisions of this act, the commission may prescribe and order substituted therefor such service, facility or service regulation, as it shall determine to be adequate and safe, or just and reasonable, as the case may be and otherwise in compliance with the provisions of this act, including any provisions concerning the availability or reliability of service. It shall be the duty of the public utility to comply with and conform to such determination and order of the commission.”

99. In the Wyoming Administrative Procedure Act, W. S. § 16-3-114(c)(ii)(E) requires our decisions to be supported by substantial evidence; and W. S. § 16-3-108(a) requires the support of “the type of evidence commonly relied upon by prudent men in the conduct of their serious affairs.”

100. Read *in pari materia*, these statutes articulate the basic mechanism of the public interest standard which the Commission is to follow in its decisions. The public interest must come first in our decisions; and, as the Wyoming Supreme Court has stated, the desires of the utility are secondary to it. *Mountain Fuel Supply Company v. Public Service Commission*, 662 P.2d 878 (Wyo. 1983). Construing W. S. § 37-3-101, which requires rates to be reasonable, the Court in *Mountain Fuel*, *supra*, at 883, commented that:

“This court cannot usurp the legislative functions delegated to the PSC in setting appropriate rates, but will defer to the agency discretion so long as the results are fair, reasonable, uniform and not unduly discriminatory.”

Later, 662 P.2d at 885, the Court in *Mountain Fuel* observed that:

“We agree that if the end result complies with the ‘just and reasonable’ standard announced in the

statute, the methodology used by the PSC is not a concern of this court, but is a matter encompassed within the prerogatives of the PSC.”

In accord are *Great Western Sugar Co. v. Wyo. Public Service Comm'n and MDU*, 624 P.2d 1184 (Wyo. 1981); and *Union Tel Co. v. Public Service Comm'n*, 821 P.2d 550 (Wyo. 1991), wherein the Supreme Court stated, 821 P.2d at 563, that it “. . . has recognized that discretion is vested in the PSC in establishing rate-making methodology so long as the result reached is reasonable.”

101. The standards which the Commission must follow in determining the cost of equity capital in this case are set forth above in paragraph 34 a13 and will not be restated here.

### Conclusions of Law

102. PacifiCorp is duly authorized by the Commission to provide retail electric public utility service in its Wyoming East and Wyoming West service territories under certificates of public convenience and necessity as issued and amended by the Commission. PacifiCorp is an electric public utility as defined in W. S. § 37-1-101(a)(vi) (C); and, as such, pursuant to W. S. § 37-2-112, the Commission has the general and exclusive jurisdiction to regulate PacifiCorp as a public utility in Wyoming.

103. Proper public notice of these proceedings was given in accordance with the Wyoming Administrative Procedure Act, W. S. § 37-2-203 and the Commission's Rules, especially Section 106 thereof. The public hearings were held and conducted pursuant to the provisions of W. S. §§ 16-3-107, 16-3-108, 37-2-203, and applicable sections of the Commission's Rules. The interventions of the various parties were properly granted, and the entities and persons who intervened became parties to the case for all purposes.

104. PacifiCorp's current retail electric utility service rates in Wyoming are inadequate and should be increased, but only to the extent provided for in this order.

105. The Commission's decisions set forth hereinabove are supported by substantial evidence in the record of this case. We conclude that the effects of our decisions set forth in this order, when given effect accurately and in accordance with this order, will produce rates that are just and reasonable; they will produce no undue discrimination among customers; they are adequate and remunerative; and they are in the public interest. The increases are adequate and remunerative and in the public interest. The allocation, rate design and rate spread proposals by PacifiCorp approved hereinabove are fair and reasonable and in the public interest. The rates approved herein will allow PacifiCorp to continue to provide adequate and reliable service. Likewise, the tariff modifications approved herein are just and reasonable and produce no undue discrimination among customers.

106. We conclude that the cost of capital determined here meets the criteria established by the United States Supreme Court in the *Hope* and *Bluefield* cases. We conclude that the directives set out above for further meetings, reports and filings, are

necessary, that they are supported by the substantial evidence in this case and required by the public interest.

107. We conclude that the rate convergence plan presented by PacifiCorp provides for a just and reasonable transition to rate parity between the Wyoming East and Wyoming West service areas. The plan brings about a convergence by the end of the next calendar year and does so without undue rate shock and with no undue discrimination among PacifiCorp's Wyoming customers.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The application of PacifiCorp in this case for a general rate increase is hereby approved, but only to the extent and in the manner specifically set forth above in this order. To ensure an accurate result, the parties to this case shall collaborate with PacifiCorp to produce a consensus exhibit showing the details of the rate changes needed to state accurately and to collect the additional revenue authorized herein and to do so on the bases approved above in this order. In doing so, the parties shall use and apply the decisions set forth in the "b" paragraphs of this order, including an accurate accounting for the effects of the Commission's decision on ancillary outcome-dependent issues as described generally hereinabove. Once the parties are in consensus, PacifiCorp shall file with the Commission, in addition to this exhibit, proposed revised tariffs, in legislative and proposed final formats, complying with the decision of the Commission. Those tariffs, once approved, shall be effective for service rendered on and after the date of their approval by the Commission as conforming to this order, unless PacifiCorp shall request in writing a later effective date.

2. Except as granted hereinabove, all requests for relief in this case are hereby denied.

3. Except for any confidential information which has become evidence and therefore a part of the record in this case (and which is retained for that reason by the Commission in its sealed files), all confidential information in this case shall be returned or otherwise disposed of promptly by the parties in accordance with the confidential information provisions of and nondisclosure agreement approved by the Commission in its Order on Protection of Confidential Information and Other Procedural Issues, issued on August 6, 2003.

4. This order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, on February 28, 2004.

PUBLIC SERVICE COMMISSION OF WYOMING

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STEVE ELLENBECKER, Chairman

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(SEAL)  
Attest:

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KRISTIN H. LEE, Deputy Chair

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STEPHEN G. OXLEY, Secretary and Chief Counsel