

# McDowell & Rackner PC



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December 10, 2009

## VIA E-MAIL AND FIRST-CLASS MAIL

PUC Filing Center  
Public Utility Commission of Oregon  
550 Capitol Street NE  
Salem, OR 97308

**Re: UE 210: Legal Issues Related to Rate Base Raised in ICNU's Opening Brief**

Dear ALJs Hardie and Wallace,

On November 25, 2009, the Industrial Customers of Northwest Utilities ("ICNU") and the Joint Parties<sup>1</sup> filed opening briefs in this proceeding. In its opening brief, ICNU raised legal objections to the level of rate base contained in the Joint Parties' Revenue Requirement Stipulation ("Stipulation") filed on September 25, 2009. As discussed in the Joint Parties' reply brief filed concurrently with this letter, the Joint Parties believe that the Commission does not need to address ICNU's legal arguments on the rate base issue, because the level of rate base in the Stipulation meets the legal standard proposed by ICNU.<sup>2</sup> Therefore, ICNU's rate base argument fails on factual grounds and the Commission does not need to resolve the legal argument.

Because the Joint Parties believe that the Commission does not need to address ICNU's legal argument, and because the Joint Parties have differing interpretations of the applicable legal standard, the Joint Parties did not respond to ICNU's legal arguments in their reply brief. However, the Joint Parties will file briefs discussing the rate base legal standard if the Commission determines that such briefs would assist in its resolution of this proceeding.

Please contact Katherine McDowell should you have any questions.

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<sup>1</sup> The Joint Parties are PacifiCorp d/b/a Pacific Power, Staff of the Public Utility Commission of Oregon, the Citizens' Utility Board of Oregon, Fred Meyer Food Stores and Quality Food Centers, Divisions of The Kroger Co., and Klamath Water Users Association.

<sup>2</sup> ICNU appears to have adopted the legal standard proposed by Staff in the testimony of Deborah Garcia. See Staff/100, Garcia/6-12; Opening Brief of ICNU at 29. As discussed in the testimony of PacifiCorp witness Bryce Dalley, PacifiCorp does not agree with ICNU's and Staff's proposed rate base legal standard. PPL/706, Dalley/17-22.

On behalf of the Joint Parties,



**PACIFICORP**  
Katherine A. McDowell



**PUBLIC UTILITY COMMISSION STAFF**  
Jason Jones



**CITIZENS' UTILITY BOARD OF OREGON**  
Robert Jenks

cc: Service List

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**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and correct copy of the foregoing document in UE 210 on the following named person(s) on the date indicated below by email and first-class mail addressed to said person(s) at his or her last-known address(es) indicated below.

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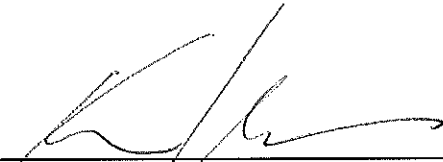
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DATED: December 10, 2009



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