

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1209

In the Matter of MIDAMERICAN
ENERGY HOLDINGS COMPANY
Application for Authorization to Acquire
Pacific Power & Light, dbaPacifiCorp

STIPULATION

This Stipulation is entered into for the purpose of resolving all issues in this proceeding by and among the parties as set forth below.

PARTIES

1. The initial parties to this Stipulation (“Stipulation”) are MidAmerican Energy Holdings Company (“MEHC”), PacifiCorp, Staff of the Public Utility Commission of Oregon (“Staff”), the Citizens’ Utilities Board (“CUB”), the Industrial Customers of Northwest Utilities (“ICNU”), Renewable Northwest Project (“RNP”); Natural Resources Defense Council (“NRDC”); Community Action Directors of Oregon (“CADO”), Oregon Energy Coordinators Association (“OECA”), League of Oregon Cities; Sherman County; and Pacific Coast Federation of Fishermen’s Associations (“PCFFA”) (together “the Parties” and individually “Party”). This Stipulation will be made available to other parties to this docket, who may participate by signing and filing a copy of this Stipulation.

2. The Parties, by signing this Stipulation, acknowledge that the Applicants have satisfied the “net benefits” standard in Oregon pursuant to ORS 757.511 for approval of the Application, amended as provided for in this Stipulation, and that the Public Utility Commission of Oregon (the “Commission”) should issue an order approving the Stipulation and providing the approvals and declaratory rulings that the Applicants have requested in the Application.

3. The Parties agree to support Commission approval of the Application and this Stipulation. This Stipulation will be offered into the record of this proceeding as evidence pursuant to OAR 860-014-0085. The Parties agree to support this Stipulation throughout this proceeding and any appeal, provide witnesses to sponsor this Stipulation at the hearing and recommend that the Commission issue an order adopting the settlements contained herein. If any other party to this proceeding challenges this Stipulation, the Parties agree to cooperate in cross-examination and put on such a case as they deem appropriate to respond fully to the issues presented, which may include raising issues that are incorporated in the settlements embodied in this Stipulation.

BACKGROUND

4. On July 15, 2005, MEHC filed an Application with the Commission authorizing a proposed transaction (“Transaction”) whereby MEHC would acquire all of the outstanding common stock of PacifiCorp from ScottishPower and PacifiCorp would thereafter become an indirect wholly owned subsidiary of MEHC. On August 17, 2005, MEHC filed revisions to the Application to reflect the repeal of the Public Utility Holding Company Act by the Energy Policy Act of 2005. Concurrent with the filing of this Stipulation, MEHC will file an amended Application including Berkshire Hathaway Inc. (“Berkshire Hathaway”) as an applicant.

5. The Parties have reviewed the Application, the pre-filed testimony of the Parties, the amendments to the Application and MEHC’s and PacifiCorp’s responses to the extensive discovery requests submitted in this proceeding.

6. Since October 2005, the Parties have engaged in settlement discussions on the issues in this proceeding. The settlement discussions have been open to all parties to this Docket.

MODIFICATION

7. The Parties have negotiated this Stipulation as an integrated document. If the Commission rejects all or any material part of this Stipulation or imposes additional material conditions in approving the Application, any Party disadvantaged by such action shall have the right, upon written notice to the Commission and all Parties within 15 business days of the Commission's order, to withdraw from this Stipulation, pursue their rights under OAR 860-014-0085 and/or seek reconsideration or appeal of the Commission's order. However, prior to withdrawal, the Party shall engage in a good faith negotiation process with the other Parties. No Party withdrawing from this Stipulation, including MEHC and PacifiCorp, shall be bound to any position, commitment, or condition of this Stipulation.

EFFECTIVE DATE

8. Subject to Paragraph 9 of this Stipulation, the effective date of this Stipulation shall be the date of the closing of the Transaction.

9. The obligations of MEHC and PacifiCorp under this Stipulation are subject to the Commission's approval of the Application in this docket on terms and conditions acceptable to MEHC and PacifiCorp, in their sole discretion, and the closing of the Transaction.

AGREEMENT

10. Concurrent with the filing of this Stipulation, MEHC will file an amended Application including Berkshire Hathaway as an applicant. The Application will also seek a declaration, based upon sworn statements that will be attached as exhibits, that neither Warren Buffett nor Walter Scott, Jr. (together, the "Shareholders") are necessary applicants under ORS 757.511. The sworn statements of Warren Buffett and Walter Scott, Jr. will provide that neither will exercise any control, directly or indirectly, on matters that pertain to PacifiCorp (except for matters relating to PacifiCorp that are ministerial in nature). The sworn statements will also

provide that the Shareholders will recuse themselves from voting as MEHC or Berkshire Hathaway directors on MEHC or Berkshire Hathaway Board of Directors matters concerning PacifiCorp activities or operations. The sworn statements will provide that the future transfer of the Shareholders' shares will require an agreement by the transferee to abide by the limitations recited above, as applicable, regarding the power to exercise substantial influence over PacifiCorp if, to the Shareholders' knowledge, the transferee would own 5% or more of the voting interests of MEHC or Berkshire Hathaway after such transfer.. By the foregoing, the Shareholders, PacifiCorp, MEHC and Berkshire Hathaway do not concede that such transferees are affiliated interests as defined by ORS 757.015(1)-(3).

11. Parties have reviewed final drafts of the amended Application and the Shareholders' sworn statements for the last five (5) business days preceding this filing, or have expressly agreed to waive the requirement of this review period. No more than (7) seven business days after the filing of the amended Application and the Shareholders' sworn statements, Parties may withdraw from the Stipulation if any of these documents has been significantly modified without agreement of the Parties.

12. The Parties agree that the filings described in Paragraph 10 of this Stipulation are sufficient to address the issue of the applicants necessary for approval of the Application under ORS 757.511 and the underlying Transaction, both in general and as specifically applied to Berkshire Hathaway, Warren Buffett and Walter Scott, Jr. The Parties will not advocate that Berkshire Hathaway, Warren Buffett and Walter Scott, Jr., as a result of the filings described in Paragraph 10 of this Stipulation and the underlying Transaction, are "public utilities" as defined by ORS 757.005. The Parties also agree that no additional discovery is necessary on Berkshire Hathaway or the Shareholders to process and approve the Application.

13. Exhibit 1 contains the complete list of Commitments that MEHC and PacifiCorp (and Berkshire Hathaway, as applicable) agree to as a part of this Stipulation (“Commitments”). The Commitments are comprised of two categories of commitments; commitments entered into by MEHC and PacifiCorp applicable to all the states in which PacifiCorp’s service territory extends and Oregon-specific commitments which apply only to the activities and operations of MEHC and PacifiCorp within Oregon. By virtue of executing this Stipulation, MEHC and PacifiCorp agree to perform all of the Commitments set forth in Exhibit 1 according to the provisions of each Commitment. Berkshire Hathaway shall perform the Commitments applicable to it as provided in Commitment O 5.

14. The Commitments may be expanded or modified as a result of regulatory decisions or settlements in other states. MEHC and PacifiCorp agree that the Commission shall have an opportunity and the authority to consider and adopt in Oregon any commitments or conditions to which MEHC and PacifiCorp agree or with which MEHC and PacifiCorp are required to comply in other jurisdictions, even if such commitments and conditions are agreed to after the Commission enters its order in this docket. This agreement does not preclude MEHC and PacifiCorp from requiring a state to substitute or eliminate certain commitments if there were explicit trade-offs agreed among commitments during settlement negotiations, that are memorialized in a Stipulation, Testimony or other settlement document.¹ If MEHC and PacifiCorp accept a commitment in another jurisdiction by which PacifiCorp agrees not to file a new rate case for a period of time, MEHC and PacifiCorp will not make such commitment the subject of a trade-off for an Oregon commitment. To facilitate the Commission’s consideration and adoption of the commitments and conditions from other jurisdictions, the Parties urge the

¹ Exhibit 1 explicitly identifies where such trade-offs were made by the Parties in Oregon. The Parties will also include a chart of these trade-offs in their Joint Testimony.

Commission to issue an order accepting this Stipulation as soon as practical, but to reserve in such order the explicit right to re-open Exhibit 1 to add (without modification of the language thereof except such non-substantive changes as are necessary to make the commitment or condition applicable to Oregon) commitments and conditions accepted or ordered in another state jurisdiction. To provide input to the Commission to facilitate a prompt decision regarding the desirability or lack of desirability for these out-of-state commitments and conditions to be adopted in Oregon, the Parties agree to and recommend the following process:

- Within five calendar days after a stipulation with new or amended commitments is filed by MEHC and PacifiCorp with a commission in another state jurisdiction, MEHC and PacifiCorp will send a copy of the stipulation and commitments to the Parties.
- Within five calendar days after a commission in another state jurisdiction issues an order that accepts a stipulation to which MEHC and PacifiCorp are a party or otherwise imposes new or modified commitments or conditions, that order, together with all commitments and conditions of any type agreed to by MEHC and PacifiCorp or ordered by the commission in such other state, will be filed with the Commission and served on all parties to this docket by the most expeditious means practical.
- Within ten calendar days after the last such filing from the other states (“Final Filing”), any party to the docket wishing to do so shall file with the Commission its response, including its position as to whether any of the covenants, commitments and conditions from the other jurisdictions (without modification of the language thereof except such non-substantive changes as are necessary to

make the commitment or condition applicable to Oregon) should be adopted in Oregon.

- Within five calendar days after any such response filing, any party to the docket may file a reply with the Commission. If the 5th calendar day falls on Saturday, Sunday, or a holiday, the next business day will be considered as the 5th day.

The Parties agree to support in their filings (or by representation of same by MEHC) the issuance by the Commission of an order regarding the adoption of such commitments and conditions as soon as practical thereafter, recognizing that the Transaction cannot close until final state orders have been issued.

15. The following provisions, applicable only to the Parties, will become effective upon the closing of the Transaction:

- a) MEHC and PacifiCorp will support a five-year renewal of the Intervenor Funding Agreement (“IFA”) dated February 5, 2003, such that the current funding for the types of consumers represented by the signatories to the IFA who are currently receiving funding does not expire on December 31, 2007.
- b) Through December 31, 2011, MEHC and PacifiCorp will both confer with the signatories and provide drafts in a timely manner prior to introducing legislation in the Oregon Legislature that would impact Oregon utility regulation, including Oregon city franchise authority.
- c) MEHC has no current intention to acquire other public utilities as defined by ORS 757.005. If that intention should ever change, MEHC will confer with the signatories before public announcement of such an acquisition, subject to agreements regarding confidentiality.

- d) Within 90 days of the close of the Transaction, MEHC and PacifiCorp will begin working with ICNU, and any other interested party, to evaluate and, if mutually agreed to be appropriate, file with the Commission service quality standards related to industrial customers, with a focus on high tech companies. MEHC, PacifiCorp and ICNU, and any other interested party, will report back to the Commission on the conclusions and recommendations reached no later than February 1, 2007. MEHC and PacifiCorp acknowledge that modifications to existing customer service guarantees and performance standards may result from this process and nothing in Commitments 1 or 45 will preclude these from being filed if mutually agreed-upon by the Parties.
- e) Senior executives of MEHC and PacifiCorp will make themselves available upon request to the signatories to discuss regulatory, customer service, and energy policy issues.
- f) MEHC and PacifiCorp commit to notify Parties if PacifiCorp is contemplating changes to system operations that would adversely affect community renewable energy projects as described in Commitment O 28.
- g) MEHC and PacifiCorp agree that the provisions of this paragraph are subject to Commitment O 1, regarding enforcement and dispute resolution.

16. The Parties agree to support the specified amounts of the downgrade adjustments referenced in Commitment O 14 of Exhibit 1 to the extent such adjustments become necessary.

17. The Parties will not oppose in any proceeding the concept of the captive insurance affiliate for the purposes proposed in this Stipulation.

18. The Parties agree to support recovery over a reasonable period of prudent costs associated with the IGCC studies in Commitment O 33, consistent with Oregon law and regulatory practice.

19. PacifiCorp agrees that any rate case filed before the close of the Transaction will include pro forma adjustments, as appropriate, to allow for the implementation of Oregon Commitments O 8 thru O 12.

20. Parties will encourage the Commission to enter an order granting final Oregon approval as soon as possible but not later than February 28, 2006. The Parties agree not to request an extension of the suspension period in this case, which now expires on February 28, 2006, from MEHC and PacifiCorp.

21. Not later than the Final Filing, MEHC and PacifiCorp will disclose to the Parties any written commitments, conditions or covenants made in Oregon or another state jurisdiction (between the date of the filing of the Stipulation and the receipt of the last state order in the transaction docket) intended to encourage approval of the transaction or avoidance of an objection thereto.

RESERVATION OF RIGHTS

22. By executing this Stipulation, no Party waives any right to assert such positions regarding the prudence, just and reasonable character, rate or ratemaking impact or treatment, or public interest as they deem appropriate pertaining to any Commitment.

23. No commitments or conditions of this Stipulation are to be construed as mandating Commission enforcement of any settlement agreement solely subject to FERC jurisdiction nor pre-empting in any way FERC authority.

24. The Parties agree that this Stipulation represents a compromise in the positions of the Parties. As such, conduct, statements and documents disclosed in the negotiation of this Stipulation shall not be admissible as evidence in this or any other proceeding. By entering into this Stipulation, no Party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed by any other Party in arriving at the terms of this Stipulation, other than those specifically identified in the body of this Stipulation. No Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except as expressly identified in the Stipulation.

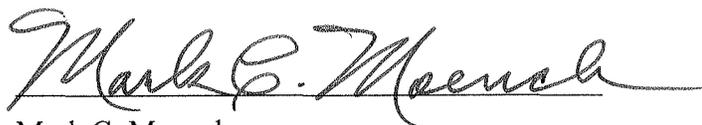
25. By executing this Stipulation, the Parties agree that this Transaction and the Commitments as a whole are in the public interest, however, no individual Party is deemed to have agreed to each individual Commitment.

26. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

This Stipulation is entered into by each Party as of the date entered below:

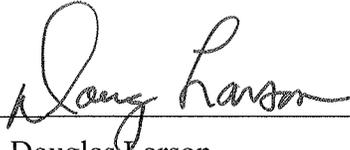
Executed this 23rd day of December, 2005.

MIDAMERICAN ENERGY HOLDINGS COMPANY

A handwritten signature in black ink, reading "Mark C. Moench", written over a horizontal line.

Mark C. Moench
Senior Vice President, Law

PACIFICORP



D. Douglas Larson
Vice President, Regulation

STAFF OF THE OREGON PUBLIC UTILITY
COMMISSION

CITIZEN'S UTILITY BOARD

INDUSTRIAL CUSTOMERS OF NORTHWEST
UTILITIES

PACIFICORP

D. Douglas Larson
Vice President, Regulation

STAFF OF THE OREGON PUBLIC UTILITY
COMMISSION

Michael Tilley 12/23/05

CITIZENS' UTILITY BOARD

INDUSTRIAL CUSTOMERS OF NORTHWEST
UTILITIES

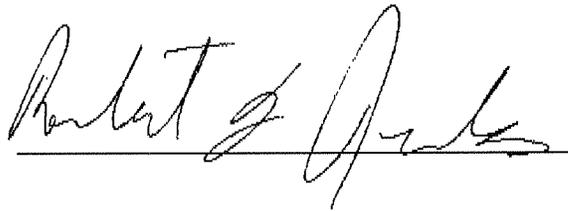
RENEWABLE NORTHWEST PROJECT

PACIFICORP

D. Douglas Larson
Vice President, Regulation

STAFF OF THE OREGON PUBLIC UTILITY
COMMISSION

CITIZENS' UTILITY BOARD



Robert J. Quisenberry

INDUSTRIAL CUSTOMERS OF NORTHWEST
UTILITIES

PACIFICORP

D. Douglas Larson
Vice President, Regulation

STAFF OF THE OREGON PUBLIC UTILITY
COMMISSION

CITIZENS' UTILITY BOARD

INDUSTRIAL CUSTOMERS OF NORTHWEST
UTILITIES



A handwritten signature in cursive script, appearing to read "Mark Miller", is written over a horizontal line.

RENEWABLE NORTHWEST PROJECT

RENEWABLE NORTHWEST PROJECT

Rachel Shimshak

J. Rachel Shimshak
Director

LEAGUE OF OREGON CITIES

NATURAL RESOURCES DEFENSE COUNCIL

CADO/OECA

LEAGUE OF OREGON CITIES

Andrew J. Logre

NATURAL RESOURCES DEFENSE COUNCIL

CADO/OECA

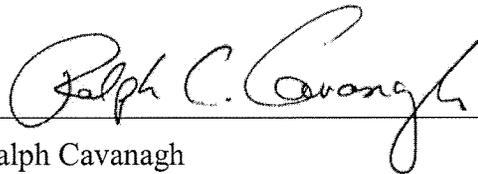
PACIFIC COAST FEDERATION OF FISHERMEN'S
ASSOCIATIONS

SHERMAN COUNTY

RENEWABLE NORTHWEST PROJECT

LEAGUE OF OREGON CITIES

NATURAL RESOURCES DEFENSE COUNCIL

A handwritten signature in black ink that reads "Ralph C. Cavanagh". The signature is written in a cursive style with a large, looping initial "R".

Ralph Cavanagh
Senior Attorney and Co-Director, Energy Program

CADO/OECA

RENEWABLE NORTHWEST PROJECT

LEAGUE OF OREGON CITIES

NATURAL RESOURCES DEFENSE COUNCIL

CADO/OECA

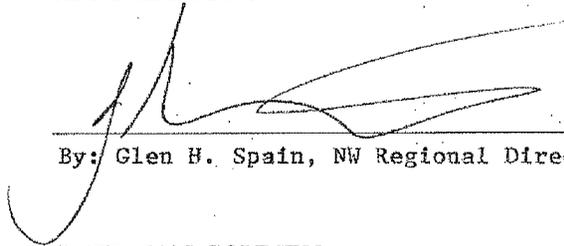
A handwritten signature in black ink, appearing to be 'R. G. B.', written over a horizontal line.

LEAGUE OF OREGON CITIES

NATURAL RESOURCES DEFENSE COUNCIL

CADO/OECA

PACIFIC COAST FEDERATION OF FISHERMEN'S
ASSOCIATIONS



By: Glen H. Spain, NW Regional Director

SHERMAN COUNTY

LEAGUE OF OREGON CITIES

NATURAL RESOURCES DEFENSE COUNCIL

CADO/OECA

PACIFIC COAST FEDERATION OF FISHERMEN'S
ASSOCIATIONS

SHERMAN COUNTY

Peter J. Henderson

**MEHC Acquisition of PacifiCorp
Oregon Docket No. UM-1209**

Consolidated List of Commitments

Commitments Applicable to All States:

- 1) MEHC and PacifiCorp affirm the continuation (through March 31, 2008) of the existing customer service guarantees and performance standards in each jurisdiction. MEHC and PacifiCorp will not propose modifications to the guarantees and standards prior to March 31, 2008. Refer to Commitment 45 for the extension of this commitment through 2011.
- 2) Penalties for noncompliance with performance standards and customer guarantees shall be paid as designated by the Commission and shall be excluded from results of operations. PacifiCorp will abide by the Commission's decision regarding payments.
- 3) PacifiCorp will maintain its own accounting system, separate from MEHC's accounting system. All PacifiCorp financial books and records will be kept in Portland, Oregon. PacifiCorp's financial books and records and state and federal utility regulatory filings and documents will continue to be available to the Commission, upon request, at PacifiCorp's offices in Portland, Oregon, Salt Lake City, Utah, and elsewhere in accordance with current practice.
- 4) MEHC and PacifiCorp will provide the Commission access to all books of account, as well as all documents, data, and records of their affiliated interests, which pertain to transactions between PacifiCorp and its affiliated interests or which are otherwise relevant to the business of PacifiCorp. This commitment is also applicable to the books and records of Berkshire Hathaway, which shall retain its books and records relevant to the business of PacifiCorp consistent with the manner and time periods of the Federal Energy Regulatory Commission's record retention requirements that are applicable to PacifiCorp's books and records.
- 5) MEHC, PacifiCorp and all affiliates will make their employees, officers, directors, and agents available to testify before the Commission to provide information relevant to matters within the jurisdiction of the Commission.
- 6) The Commission or its agents may audit the accounting records of MEHC and its subsidiaries that are the bases for charges to PacifiCorp, to determine the reasonableness of allocation factors used by MEHC to assign costs to PacifiCorp and amounts subject to allocation or direct charges. MEHC agrees to cooperate fully with such Commission audits.

- 7) MEHC and PacifiCorp will comply with all applicable Commission statutes and regulations regarding affiliated interest transactions, including timely filing of applications and reports.
- 8) PacifiCorp will file on an annual basis an affiliated interest report including an organization chart, narrative description of each affiliate, revenue for each affiliate and transactions with each affiliate.
- 9) PacifiCorp and MEHC will not cross-subsidize between the regulated and non-regulated businesses or between any regulated businesses, and shall comply with the Commission's applicable orders and rules with respect to such matters.
- 10) Due to PUHCA repeal, neither Berkshire Hathaway nor MEHC will be registered public utility holding companies under PUHCA. Thus, no waiver by Berkshire Hathaway or MEHC of any defenses to which they may be entitled under *Ohio Power Co. v. FERC*, 954 F.2d 779 (D.C. Cir.), *cert. denied sub nom. Arcadia v. Ohio Power Co.*, 506 U.S. 981 (1992) ("*Ohio Power*"), is necessary to maintain the Commission's regulation of MEHC and PacifiCorp. However, while PUHCA is in effect, Berkshire Hathaway and MEHC waive such defenses.
- 11) a) Any diversified holdings and investments (e.g., non-utility business or foreign utilities) of MEHC following approval of the transaction will not be held by PacifiCorp or a subsidiary of PacifiCorp. This condition will not prohibit MEHC or its affiliates other than PacifiCorp from holding diversified businesses.

b) Ring-fencing provisions for PPW Holdings LLC will include the provisions in Appendix 1. These provisions have been derived from those in effect for NNGC Acquisition, LLC as of December 1, 2005.
- 12) PacifiCorp or MEHC will notify the Commission subsequent to MEHC's board approval and as soon as practicable following any public announcement of: (1) any acquisition of a regulated or unregulated business representing 5 percent or more of the capitalization of MEHC; or (2) the change in effective control or acquisition of any material part or all of PacifiCorp by any other firm, whether by merger, combination, transfer of stock or assets.
- 13) The Inter-company Administrative Services Agreement (IASA) will include the corporate and affiliate cost allocation methodologies. The IASA will be filed with the Commission as soon as practicable after the closing of the transaction. Approval of the IASA will be requested if required by law or rule, but approval for ratemaking purposes will not be requested in such filing. Refer to Commitment 14 (f). Amendments to the IASA will also be filed with the Commission.
- 14) Any proposed cost allocation methodology for the allocation of corporate and affiliate investments, expenses, and overheads, required by law or rule to be

submitted to the Commission for approval, will comply with the following principles:

- a) For services rendered to PacifiCorp or each cost category subject to allocation to PacifiCorp by MEHC or any of its affiliates, MEHC must be able to demonstrate that such service or cost category is necessary to PacifiCorp for the performance of its regulated operations, is not duplicative of services already being performed within PacifiCorp, and is reasonable and prudent.
 - b) Cost allocations to PacifiCorp and its subsidiaries will be based on generally accepted accounting standards; that is, in general, direct costs will be charged to specific subsidiaries whenever possible and shared or indirect costs will be allocated based upon the primary cost-driving factors.
 - c) MEHC and its subsidiaries will have in place positive time reporting systems adequate to support the allocation and assignment of costs of executives and other relevant personnel to PacifiCorp.
 - d) An audit trail will be maintained such that all costs subject to allocation can be specifically identified, particularly with respect to their origin. In addition, the audit trail must be adequately supported. Failure to adequately support any allocated cost may result in denial of its recovery in rates.
 - e) Costs which would have been denied recovery in rates had they been incurred by PacifiCorp regulated operations will likewise be denied recovery whether they are allocated directly or indirectly through subsidiaries in the MEHC group.
 - f) Any corporate cost allocation methodology used for rate setting, and subsequent changes thereto, will be submitted to the Commission for approval if required by law or rule.
- 15) MEHC and PacifiCorp commit that PacifiCorp will maintain separate debt and preferred stock, if any. PacifiCorp will maintain its own corporate credit rating, as well as ratings for long-term debt and preferred stock, from Moody's and S&P or their successor rating agencies.
 - 16) MEHC and PacifiCorp will exclude all costs of the transaction from PacifiCorp's utility accounts. Within 90 days following completion of the transaction, MEHC will provide a preliminary accounting of these costs. Further, MEHC will provide the Commission with a final accounting of these costs within 30 days of the accounting close.
 - 17) MEHC and PacifiCorp will provide the Commission with unrestricted access to all written information provided by and to credit rating agencies that pertains to PacifiCorp or MEHC. Berkshire Hathaway and MEHC will also provide the

Commission with unrestricted access to all written information provided by and to credit rating agencies that pertains to MEHC's subsidiaries to the extent such information may potentially impact PacifiCorp.

- 18) a) MEHC and PacifiCorp commit that PacifiCorp will not make any dividends to PPW Holdings LLC or MEHC that will reduce PacifiCorp's common equity capital below the following percentages of its Total Capital without Commission approval:

48.25% from the date of the close of the transaction through December 31, 2008;

47.25% from January 1, 2009, through December 31, 2009;

46.25% from January 1, 2010 through December 31, 2010;

45.25% from January 1, 2011 through December 31, 2011;

44.00% after December 31, 2011.

- b) PacifiCorp's Total Capital is defined as common equity, preferred equity and long-term debt. Long-term debt is defined as debt with a term of more than one year. For purposes of calculating the numerator of the percentage, common equity will be increased by 50% of the remaining balance of preferred stock that was in existence prior to the acquisition of PacifiCorp by MEHC. PacifiCorp and MEHC will work with Commission staff to determine a percentage of common equity credit to apply to preferred stock issued by PacifiCorp after the acquisition of PacifiCorp by MEHC. In the absence of such an agreement between Commission staff and the Companies, MEHC and PacifiCorp agree to treat new issuances of preferred stock as 100% debt, unless a Commission order approves a different percentage.
- c) MEHC and PacifiCorp commit that PacifiCorp will not make any dividends to PPW Holdings LLC or MEHC that will reduce PacifiCorp's common equity capital below 35% of its Total Adjusted Capital without Commission approval. For purposes of calculating the numerator of the percentage, common equity will not include any portion of PacifiCorp preferred stock issued and outstanding. PacifiCorp's Total Adjusted Capital is defined as common equity, preferred equity, long-term debt, short-term debt and capitalized lease obligations.
- d) The Commission, on its own motion or at the request of any party, may reexamine the minimum common equity percentages as financial conditions or accounting standards warrant.
- 19) The capital requirements of PacifiCorp, as determined to be necessary to meet its obligation to serve the public, will be given a high priority by the Board of Directors of MEHC and PacifiCorp.
- 20) MEHC and PacifiCorp commit that neither PacifiCorp nor its subsidiaries will, without the approval of the Commission, make loans or transfer funds (other than

dividends and payments pursuant to the IASA) to MEHC, Berkshire Hathaway or their respective subsidiaries, or assume any obligation or liability as guarantor, endorser, surety or otherwise for MEHC, Berkshire Hathaway or their respective subsidiaries; provided that this condition will not prevent PacifiCorp, to the extent allowed by law, from making loans or transferring funds to a subsidiary of PacifiCorp or assuming any obligation or liability on behalf of a subsidiary of PacifiCorp. MEHC and Berkshire Hathaway will not pledge any of the assets of the business of PacifiCorp as backing for any securities which MEHC, Berkshire Hathaway or their respective subsidiaries, but excluding PacifiCorp and its subsidiaries, may issue.

- 21) MEHC and PacifiCorp will not advocate for a higher cost of capital as compared to what PacifiCorp's cost of capital would have been, using Commission standards, absent MEHC's ownership.
- 22) [This Commitment number has intentionally been left blank. Commitment 22 is not available if a state selects Oregon-specific Commitment O 12.]
- 23) PacifiCorp will continue a Blue Sky tariff offering in all states. PacifiCorp will continue to support this offering through innovative marketing, by modifying the tariff to reflect the developing green power market and by monitoring national certification standards.
- 24) PacifiCorp will continue its commitment to gather outside input on environmental matters, such as through the Environmental Forum.
- 25) PacifiCorp will continue to have environmental management systems in place that are self-certified to ISO 14001 standards at all PacifiCorp operated thermal generation plants.
- 26) MEHC will maintain at least the existing level of PacifiCorp's community-related contributions, both in terms of monetary and in-kind contributions. The distribution of PacifiCorp's community-related contributions among the states will be done in a manner that is fair and equitable to each state.
- 27) MEHC will continue to consult with regional advisory boards to ensure local perspectives are heard regarding community issues.
- 28) MEHC will honor PacifiCorp's existing labor contracts.
- 29) After the closing of the transaction, MEHC and PacifiCorp will make no unilateral changes to employee benefit plans prior to May 23, 2007 that would result in the reduction of employee benefits.
- 30) PacifiCorp will continue to produce Integrated Resource Plans according to the then current schedule and the then current Commission rules and orders.

- 31) When acquiring new generation resources in excess of 100 MW and with a dependable life of 10 or more years, PacifiCorp and MEHC will issue Requests for Proposals (RFPs) or otherwise comply with state laws, regulations and orders that pertain to procurement of new generation resources for PacifiCorp.
- 32) Nothing in these acquisition commitments shall be interpreted as a waiver of PacifiCorp's or MEHC's rights to request confidential treatment for information that is the subject of any commitments.
- 33) [This Commitment number has intentionally been left blank. Oregon-specific Commitment O 1 substitutes for this Commitment 33.]
- 34) MEHC and PacifiCorp have identified transmission projects that MEHC and PacifiCorp believe will enhance reliability, facilitate the receipt of renewable resources, or enable further system optimization. Subject to permitting and the availability of materials, equipment and rights-of-way, MEHC and PacifiCorp commit to use their best efforts to achieve the following transmission system infrastructure improvements¹:
- a) Path C Upgrade (~\$78 million) – Increase Path C capacity by 300 MW (from S.E. Idaho to Northern Utah). The target completion date for this project is 2010. MEHC and PacifiCorp assert that this project:
- enhances reliability because it increases transfer capability between the east and west control areas,
 - facilitates the delivery of power from wind projects in Idaho, and
 - provides PacifiCorp with greater flexibility and the opportunity to consider additional options regarding planned generation capacity additions.
- b) Mona - Oquirrh (~\$196 million) – Increase the import capability from Mona into the Wasatch Front (from Wasatch Front South to Wasatch Front North). This project would enhance the ability to import power from new resources delivered at or to Mona, and to import from Southern California by “wheeling” over the Adelanto DC tie. The target completion date for this project is 2011. MEHC and PacifiCorp assert that this project:
- enhances reliability by enabling the import of power from Southern California entities during emergency situations,
 - facilitates the acceptance of renewable resources, and
 - enhances further system optimization since it enables the further purchase or exchange of seasonal resources from parties capable of delivering to Mona.

¹ It is possible that upon further review a particular investment might not be cost-effective, optimal for customers or able to be completed by the target date. If that should occur, MEHC pledges to propose an alternative to the Commission with a comparable benefit.

- c) Walla Walla - Yakima or Mid-C (~\$88 million) – Establish a link between the “Walla Walla bubble” and the “Yakima bubble” and/or reinforce the link between the “Walla Walla bubble” and the Mid-Columbia (at Vantage). MEHC and PacifiCorp assert that either of these projects presents opportunities to enhance PacifiCorp’s ability to accept the output from wind generators and balance the system cost effectively in a regional environment. The target completion date for this project is 2010.
- 35) MEHC and PacifiCorp make the following commitments to improve system reliability:
- a) investment in the Asset Risk Program of \$75 million over the three years, 2007-2009,
 - b) investment in local transmission risk projects across all states of \$69 million over eight years after the close of the transaction,
 - c) O & M expense for the Accelerated Distribution Circuit Fusing Program across all states will be increased by \$1.5 million per year for five years after the close of the transaction, and
 - d) extension of the O&M investment across all states for the Saving SAIDI Initiative for three additional years at an estimated cost of \$2 million per year.
 - e) MEHC and PacifiCorp will support the Bonneville Power Administration in its development of short-term products such as conditional firm. No less than three months following the close of the transaction, PacifiCorp will initiate a process to collaboratively design similar short-term transmission products and will include stakeholders in this process. PacifiCorp will make every reasonable effort to complete a product by the end of 2008.
 - f) PacifiCorp will continue to offer its Partial Interim Service product, and will make commercially reasonable efforts to offer transmission customers as much firm service as the Company’s transmission studies show is available, including weeks within a month. PacifiCorp will also continue its OATT tariff provision that allows transmission customers to alter pre-scheduled transactions up to 20 minutes before the hour as long as such provision is consistent with established scheduling practices and does not jeopardize system reliability. PacifiCorp will notify parties to this proceeding if it proposes changes to these two elements of its OATT.
- 36) MEHC recognizes that it can and should have a role in addressing the critical importance of transmission infrastructure to the states in which PacifiCorp serves. MEHC also recognizes that some transmission projects, while highly desirable, may not be appropriate investments for PacifiCorp and its regulated customers.

Therefore, MEHC commits its resources and leadership to assist PacifiCorp states in the development of transmission projects upon which the states can agree. Examples of such projects would be RMATS and the proposed Frontier transmission line.

- 37) [This Commitment number has intentionally been left blank. Commitment 37 is not available if a state selects Oregon-specific Commitment O 14.]
- 38) [This Commitment number has intentionally been left blank. Commitment 38 is not available if a state selects Oregon-specific Commitments O 9 and O 11.]
- 39) In Commitment 31, MEHC and PacifiCorp adopt a commitment to source future PacifiCorp generation resources consistent with the then current rules and regulations of each state. In addition to that commitment, for the next ten years, MEHC and PacifiCorp commit that they will submit as part of any commission approved RFPs for resources with a dependable life greater than 10 years and greater than 100 MW, --including renewable energy RFPs -- a 100 MW or more utility “own/operate” alternative for the particular resource. It is not the intent or objective that such alternatives be favored over other options. Rather, the option for PacifiCorp to own and operate the resource which is the subject of the RFP will enable comparison and evaluation of that option against other viable alternatives. In addition to providing regulators and interested parties with an additional viable option for assessment, it can be expected that this commitment will enhance PacifiCorp’s ability to increase the proportion of cost-effective renewable energy in its generation portfolio, based upon the actual experience of MEC and the “Renewable Energy” commitment offered below.
- 40) MEHC reaffirms PacifiCorp's commitment to acquire 1400 MW of new cost-effective renewable resources, representing approximately 7% of PacifiCorp's load. MEHC and PacifiCorp commit to work with developers and bidders to bring at least 100 MW of cost-effective wind resources in service within one year of the close of the transaction.

MEHC and PacifiCorp expect that the commitment to build the Walla-Walla and Path C transmission lines will facilitate up to 400 MW of renewable resource projects with an expected in-service date of 2010. MEHC and PacifiCorp commit to actively work with developers to identify other transmission improvements that can facilitate the delivery of cost-effective wind energy in PacifiCorp’s service area.

In addition, MEHC and PacifiCorp commit to work constructively with states to implement renewable energy action plans so as to enable PacifiCorp to achieve at least 1400 MW of cost-effective renewable energy resources by 2015. Such renewable energy resources are not limited to wind energy resources.

- 41) MEHC supports and affirms PacifiCorp's commitment to consider utilization of advanced coal-fuel technology such as super-critical or IGCC technology when adding coal-fueled generation.
- 42) a) MEHC and PacifiCorp commit to participate in the Environmental Protection Agency's SF₆ Emission Reduction Partnership for Electric Power Systems. Sulfur hexafluoride (SF₆) is a highly potent greenhouse gas used in the electric industry for insulation and current interruption in electric transmission and distribution equipment. MEHC and PacifiCorp represent that over a 100-year period, SF₆ is 23,900 times more effective at trapping infrared radiation than an equivalent amount of CO₂, making it the most highly potent, known greenhouse gas. SF₆ is also a very stable chemical, with an atmospheric lifetime of 3,200 years. As the gas is emitted, it accumulates in the atmosphere in an essentially un-degraded state for many centuries. Thus, a relatively small amount of SF₆ can have a significant impact on global climate change. Through its participation in the SF₆ partnership, PacifiCorp will commit to an appropriate SF₆ emissions reduction goal and annually report its estimated SF₆ emissions. MEHC and PacifiCorp represent that this not only reduces greenhouse gas emissions, it saves money and improves grid reliability. Since 1999, EPA's SF₆ partner companies have saved \$2.5 million from the avoided gas loss alone. Use of improved SF₆ equipment and management practices helps protect system reliability and efficiency.
- b) Within six months after close of the transaction, MEHC and PacifiCorp commit that PacifiCorp will establish a global warming working group composed of representatives of the regulatory, consumer, educational and environmental communities in the six states that PacifiCorp serves, as well as representatives of PacifiCorp and MEHC. PacifiCorp will work with the global warming working group to identify cost-effective measures to reduce PacifiCorp's greenhouse emissions. PacifiCorp will develop and file with the Commission its strategy, which MEHC supports, for reducing its greenhouse gas emissions.
- 43) Working with the affected generation plant joint owners and with regulators to obtain required approvals, MEHC and PacifiCorp commit to install, to the extent cost effective, the equipment likely to be necessary under future emissions control scenarios at a cost of approximately \$812 million. Concurrent with any application for an air permit, MEHC and PacifiCorp will discuss its plans regarding this commitment with interested parties and solicit input. While additional expenditures may ultimately be required as future emission reduction requirements become better defined, MEHC believes these investments in emission control equipment are reasonable and environmentally beneficial. The execution of an emissions reduction plan for the existing PacifiCorp coal-fueled facilities, combined with the use of reduced-emissions coal technology for new coal-fueled generation, is expected to result in a significant decrease in the emissions rate of PacifiCorp's coal-fueled generation fleet. MEHC represents that the investments to which MEHC is committing are expected to result in a decrease in the SO₂ emissions rates of more than 50%, a decrease in the NO_x

emissions rates of more than 40%, a reduction in the mercury emissions rates of almost 40%, and no increase expected in the CO₂ emissions rate.

- 44) a) MEHC and PacifiCorp commit to conducting a company-defined third-party market potential study of additional DSM and energy efficiency opportunities within PacifiCorp's service areas. The objective of the study will be to identify opportunities not yet identified by the company and, if and where possible, to recommend programs or actions to pursue those opportunities found to be cost-effective. The study will focus on opportunities for deliverable DSM and energy efficiency resources rather than technical potentials that may not be attainable through DSM and energy efficiency efforts. On-site solar and combined heat and power programs may be considered in the study. During the three-month period following the close of the transaction, MEHC and PacifiCorp will consult with DSM advisory groups and other interested parties to define the proper scope of the study. The findings of the study will be reported back to DSM advisory groups, commission staffs, and other interested stakeholders and will be used by the Company in helping to direct ongoing DSM and energy efficiency efforts. The study will be completed within fifteen months after the closing on the transaction, and MEHC shareholders will absorb the first \$1 million of the costs of the study.
 - b) PacifiCorp further commits to meeting its portion of the NWPPC's energy efficiency targets for Oregon, Washington and Idaho, as long as the targets can be achieved in a manner deemed cost-effective by the affected states.
 - c) In addition, MEHC and PacifiCorp commit that PacifiCorp and MEC will annually collaborate to identify any incremental programs that might be cost-effective for PacifiCorp customers. The Commission will be notified of any additional cost-effective programs that are identified.
- 45) MEHC and PacifiCorp commit to continue customer service guarantees and performance standards as established in each jurisdiction, provided that MEHC and PacifiCorp reserve the right to request modifications of the guarantees and standards after March 31, 2008, and the right to request termination (as well as modification) of one or more guarantees or standards after 2011. The guarantees and standards will not be eliminated or modified without Commission approval.
 - 46) MEHC has significant experience in assisting its communities with economic development efforts. MEHC plans to continue PacifiCorp's existing economic development practices and use MEHC's experience to maximize the effectiveness of these efforts.
 - 47) MEHC understands that having adequate staffing and representation in each state is not optional. MEHC understands its importance to customers, to regulators and to states. MEHC and PacifiCorp commit to maintaining adequate staffing and

presence in each state, consistent with the provision of safe and reliable service and cost-effective operations.

- 48) PacifiCorp will provide public notice and an invitation to encourage stakeholders to participate in the Integrated Resource Plan (IRP) process. The IRP process will be used to consider Commitments 34, 39, 40, 41, 44, 52 and 53. PacifiCorp will hold IRP meetings at locations or using communications technologies that encourage broad participation.
- 49) By June 1, 2007 and each June 1 thereafter through June 1, 2011, PacifiCorp will file a report with the Commission regarding the implementation of the Commitments. The report will, at a minimum, provide a description of the performance of each of the commitments that have quantifiable results. If any of the commitments is not being met, relative to the specific terms of the commitment, the report shall provide proposed corrective measures and target dates for completion of such measures. PacifiCorp will make publicly available at the Commission non-confidential portions of the report.
- 50) PacifiCorp will maintain its current pension funding policy, as described in the 2005 Actuarial Report, for a period of two years following the close of the transaction.
- 51) Subject to, and in consideration for, dismissal of all existing proceedings and no commencement of any future state regulatory proceeding against PacifiCorp involving or arising from the SEC PUHCA Audit Report of Scottish Power dated May 11, 2004, MEHC will contribute to PacifiCorp, at no cost to PacifiCorp, MEHC's stock ownership in the Intermountain Geothermal Company and the associated steam rights (approximately 70% of the total rights) to the steam resources serving PacifiCorp's Blundell geothermal plant and terminate MEHC's and Intermountain Geothermal Company's rights and obligations under the contracts. MEHC will assist PacifiCorp in determining the cost-effectiveness of acquiring the remaining 30% of the rights. No more than six months after the close of the transaction, MEHC will provide parties a clear and complete disclosure statement that details any potential liabilities and risks, identified by or for MEHC, associated with the ownership rights of MEHC in Intermountain Geothermal. MEHC also commits that PacifiCorp customers will not be harmed from the contribution to PacifiCorp of the Intermountain Geothermal steam resources and stock.
- 52) Upon closing, MEHC and PacifiCorp commit to immediately evaluate increasing the generation capacity of the Blundell geothermal facility by the amount determined to be cost-effective. Such evaluation shall be summarized in a report and filed with the Commission concurrent with the filing of PacifiCorp's next IRP. This incremental amount is expected to be at least 11 MW and may be as much as 100 MW. All cost effective increases in Blundell capacity, completed before January 1, 2015, should be counted toward satisfaction of PacifiCorp's

1400 MW renewable energy goal, in an amount equal to the capacity of geothermal energy actually added at the plant.

- 53) MEHC or PacifiCorp commit to commence as soon as practical after close of the transaction a system impact study to examine the feasibility of constructing transmission facilities from the Jim Bridger generating facilities to Miners, Wyoming. Upon receipt of the results of the system impact study, MEHC or PacifiCorp will review and discuss with stakeholders the desirability and economic feasibility of performing a subsequent facilities study for the Bridger to Miners 500 kV transmission project.

Oregon-Specific Commitments:

- O 1.a) If the Commission believes that MEHC and/or PacifiCorp have violated any of the commitments of the stipulation, or any conditions imposed by the Commission in its final order approving the Application (collectively, the “Conditions”), then the Commission shall give MEHC and PacifiCorp written notice of the violation.
- i) If the violation is for failure to file any notice or report required by the Conditions, and if MEHC or PacifiCorp, or both provide the notice or report to the Commission within ten business days of the receipt of the written notice, then the Commission shall take no action. MEHC or PacifiCorp may request, for cause, permission for extension of the ten-day period. For any other violation of the Conditions, the Commission must give MEHC and PacifiCorp written notice of the violation. If such failure is corrected within five business days of the written notice, then the Commission shall take no action. MEHC or PacifiCorp may request, for cause, permission for extension of the five-day period.
- ii) If MEHC or PacifiCorp, or both, fail to file a notice or written report within the time permitted in subparagraph a. above, or if MEHC or PacifiCorp, or both, fail to cure, within the time permitted above, a violation that does not relate to the filing of a notice or report, then the Commission may open an investigation, with an opportunity for MEHC or PacifiCorp, or both, to request a hearing, to determine the number and seriousness of the violations. If the Commission determines after the investigation and hearing (if requested) that MEHC or PacifiCorp, or both, violated one or more of the Conditions, then the Commission shall issue an Order stating the level of penalty it will seek. MEHC or PacifiCorp, or both, as appropriate, may appeal such an order under ORS 756.580. If the Commission’s order is upheld on appeal, and the order imposes penalties under a statute that further requires the Commission to file a complaint in court, then the Commission may file a complaint in the appropriate court seeking the penalties specified in the order, and MEHC or PacifiCorp, or both, shall file a responsive pleading agreeing to

pay the penalties. The Commission shall seek a penalty on only one of MEHC or PacifiCorp for the same violation.

iii) The Commission shall not be bound by the process provided in paragraph ii in the event the Commission determines PacifiCorp has violated any of the material conditions more than two times within a rolling 24-month period.

iv) PacifiCorp or MEHC, or both, shall have the opportunity to demonstrate to the Commission that the process provided in paragraph ii should not apply on a case-by-case basis.

b) In the event of a dispute between Commission Staff and MEHC or PacifiCorp regarding a Commission Staff request made pursuant to acquisition conditions or commitments (including Berkshire Hathaway records requested pursuant to Commitment 4 or other applicable commitment), the parties agree that an Administrative Law Judge (ALJ) shall resolve the dispute as follows: (i) within ten (10) business days MEHC or PacifiCorp shall deliver to the ALJ the books and records responsive to Staff's request and shall indicate the basis for the objection, including whether the request is overbroad, unduly burdensome or outside the scope of the Commission's jurisdiction; (ii) Staff may respond in writing and MEHC or PacifiCorp, or both, may reply; (iii) the ALJ shall review the documents in private; and (iv) the ALJ shall issue a ruling determining whether the documents are, directly or indirectly, relevant to PacifiCorp or reasonably calculated to lead to the discovery of admissible evidence directly or indirectly relevant to PacifiCorp. The ALJ shall use this standard whether or not Staff is making the request in connection with an open docket. Nothing in this provision shall affect the right of MEHC or PacifiCorp to request that the Commission treat the documents as exempt from disclosure to third parties under applicable law.

O 2.a) The corporate headquarters of PacifiCorp will remain in Oregon. MEHC commits to maintaining a balance of corporate and senior management positions between Oregon and Utah. To achieve such balance, MEHC may decide as appropriate to locate a few corporate and senior management positions, and associated staff, in Utah, if cost effective. By September 1, 2007, MEHC and PacifiCorp will file a plan with the Commission that explicitly sets forth: (1) corporate and senior management positions (and associated corporate personnel positions) that have been identified for location in Oregon and Utah; (2) the timeframe for implementing different stages of the plan; and (3) an economic analysis supporting the cost effectiveness of the plan. MEHC will promptly implement the plan pursuant to the timeframe. If corporate or senior managers, and related staff, are relocated from Oregon to Utah under the Plan, the costs of relocation will not be included in Oregon rates.

b) PacifiCorp and MEHC will ensure that senior management personnel located in Oregon continue to have authority to make decisions on behalf of PacifiCorp

pertaining to (1) local Oregon retail customer service issues related to tariff interpretation, line extensions, service additions, DSM program implementation and (2) customer service matters related to adequate investment in and maintenance of the Oregon sub-transmission and distribution network and outage response. Such decisions will be subject to normal and prompt corporate approval procedures, senior executive approval and board approval, as appropriate. MEHC and PacifiCorp will include a description of the implementation of this commitment in the filing required in paragraph a).

- O 3. MEHC and PacifiCorp commit that they will interpret Oregon Revised Statutes Sections 757.015 and 757.495 to require Commission approval of any contract between PacifiCorp and (i) any affiliate of MEHC or (ii) any affiliate of Berkshire Hathaway. This shall include the IASA. MEHC and PacifiCorp intend that by obtaining Commission approval of the IASA, PacifiCorp will avoid the need to seek individual approval of affiliate transactions which are subject to that agreement. The IASA is expected to address the provision of electric service to affiliates of MEHC or Berkshire Hathaway under tariffs approved by state or federal authorities.
- O 4. MEHC and PacifiCorp commit that they will interpret Oregon Revised Statutes Sections 757.480 to require Commission approval of any transaction which results in a merger of PacifiCorp with another public utility, without regard to whether that public utility provides service in Oregon.
- O 5. Berkshire Hathaway acknowledges the Commitments made by MEHC and PacifiCorp and will not impede satisfaction of the Commitments. Berkshire Hathaway acknowledges that it is bound by Commitments 4, 5 and 17 and that it is subject to Commitments that are applicable to the affiliates of PacifiCorp and MEHC; provided, however, that Berkshire Hathaway does not guarantee or agree to be responsible for performance of Commitments made by MEHC and PacifiCorp.
- O 6. MEHC and PacifiCorp will request Commission approval, for cost allocation and affiliate transaction purposes, of the IASA and any amendments filed pursuant to Commitment 13.
- O 7. MEHC and PacifiCorp commit to \$142.5 million (total company amount) of offsetable rate credits as reflected in Appendix 2 and as described in the following Commitments O 8 through O 12. These rate credits will be reflected in rates on the effective date of new rates as determined by the Commission in a general rate case. The rate credits will terminate on December 31, 2010, to the extent not previously offset, unless otherwise noted. The rate credits in Commitments O 8 and O 12 are subject to deferred accounting as specified therein. Where total company values are referenced, the amount allocated to Oregon will equal the Oregon-allocated amount using Commission-adopted allocation factors.

- O 8.a) MEHC and PacifiCorp commit to reduce the annual non-fuel costs to PacifiCorp customers of the West Valley lease by \$0.417 million per month (total company) or an expected \$3.7 million in 2006 (assuming a March 31, 2006 transaction closing), \$5 million in 2007 and \$2.1 million in 2008 (the lease terminates May 31, 2008), which shall be the amounts of the total company rate credit. Beginning with the first month after the close of the transaction to purchase PacifiCorp, Oregon's share of the monthly rate credit will be deferred for the benefit of customers and accrue interest at PacifiCorp's authorized rate of return. (This commitment is reflected in Row 1 of Appendix 2.)
- b) This commitment is offsettable, on a prospective basis, to the extent PacifiCorp demonstrates to the Commission's satisfaction, in the context of a general rate case, that such West Valley non-fuel cost savings:
- i) are reflected in PacifiCorp's rates; and,
 - ii) there are no offsetting actions or agreements by MEHC or PacifiCorp for which value is obtained by PPM or an affiliated company, which, directly or indirectly, increases the costs PacifiCorp would otherwise incur.
- O 9.a) MEHC and PacifiCorp will hold customers harmless for increases in costs retained by PacifiCorp that were previously assigned to affiliates relating to management fees. The total company amount assigned to PacifiCorp's affiliates is \$1.5 million per year, which is the amount of the total company rate credit. This commitment expires on December 31, 2010. This Commitment is in lieu of Commitment 38, and a state must choose between this Commitment O 9 and Commitment 38. (The commitment is reflected in Row 2 of Appendix 2).
- b) This commitment is offsettable to the extent PacifiCorp demonstrates to the Commission's satisfaction, in the context of a general rate case the following:
- i) Corporate allocations from MEHC to PacifiCorp included in PacifiCorp's rates are less than \$7.3 million;
 - ii) Costs associated with functions previously carried out by parents to PacifiCorp and previously included in rates have not been shifted to PacifiCorp or otherwise included in PacifiCorp's rates; and
 - iii) Costs have not been shifted to operational and maintenance accounts (FERC accounts 500-598), customer accounts (FERC accounts 901-905), customer service and informational accounts (FERC accounts 907-910), sales accounts (FERC accounts 911-916), capital accounts, deferred debit accounts, deferred credit accounts, or other regulatory accounts.
- O 10.a) MEHC commits to use an existing, or form a new, captive insurance company to provide insurance coverage for PacifiCorp's operations. The costs of forming such captive will not be reflected in PacifiCorp's regulated accounts, nor allocated directly or indirectly to PacifiCorp. Such captive shall be comparable in costs and services to that previously provided through ScottishPower's captive insurance company Dornoch. MEHC further commits that insurance costs incurred by PacifiCorp from the captive insurance company for equivalent coverage for

calendar years 2006 through 2010, inclusive, will be no more than \$7.4 million (total company). Oregon Commission Staff has valued the potential increase in PacifiCorp's total company revenue requirement from the loss of ScottishPower's captive insurance affiliate as \$4.3 million annually, which shall be the amount of the total company rate credit. This commitment expires on December 31, 2010.

- b) This commitment is offsetable if PacifiCorp demonstrates to the Commission's satisfaction, in the context of a general rate case, the costs included in PacifiCorp's rates for such insurance coverage is not more than \$7.4 million (total company). (This commitment is reflected in Row 3 in Appendix 2.)

O 11.a) MEHC and PacifiCorp will hold customers harmless for increases in costs resulting from PacifiCorp corporate costs previously billed to PPM and other former affiliates of PacifiCorp. Oregon Commission Staff has valued the potential increase in total company revenue requirement if these costs are not eliminated as \$7.9 million annually (total company) through December 31, 2010 and \$6.4 million annually (total company) from January 1, 2011 through December 31, 2015, which shall be the amounts of the total company rate credit. This commitment shall expire on the earlier of December 31, 2015 or when PacifiCorp demonstrates to the Commission's satisfaction, in the context of a general rate case, that corporate costs previously billed to PPM and other former affiliates have not been included in PacifiCorp's rates. This Commitment is in lieu of Utah Commitment 38, and a state must choose between this Commitment O 11 and Commitment 38.

- b) This commitment is offsetable to the extent PacifiCorp demonstrates to the Commission's satisfaction, in the context of a general rate case, that corporate costs previously billed to PPM and other former affiliates have not been included in PacifiCorp's rates. (The commitment is reflected in Row 4 of Appendix 2.)

O 12.a) MEHC and PacifiCorp commit that PacifiCorp's total company A&G costs will be reduced by \$6 million annually based on the A&G categories, assumptions, and values contained in Appendix 3 titled, "UM 1209 A & G Stretch". The amount of the total company rate credit is \$6 million per year. This commitment expires December 31, 2010. Beginning with the first month after the close of the transaction, Oregon's share of the \$0.5 million monthly rate credit will be deferred for the benefit of customers and accrue interest at PacifiCorp's authorized rate of return. This Commitment is in lieu of Commitments 22 and U 23 from the Utah settlement, and a state must choose between this Commitment O 12 and Commitments 22 and U 23.

- b) The credit will be offsetable, on a prospective basis, by the amount that PacifiCorp demonstrates to the Commission's satisfaction, in a general rate case, that total company A&G expenses included in PacifiCorp's rates are lower than the benchmark and have not been shifted to other regulatory accounts. The 2006 benchmark will be \$228.8 million. Subsequent benchmarks shall equal the 2006

benchmark multiplied by the ratio of the Global Insight's Utility Cost Information Service (UCIS)-Administrative and General – Total Operations and Maintenance Index (INDEX CODE Series JEADGOMMS), for the test period divided by the 2006 index value. If another index is adopted in a future PacifiCorp case, that index will replace the aforementioned index and will be used on a prospective basis only. If this occurs, the benchmark for future years will equal the benchmark from the rate case in which a new index was adopted multiplied by the ratio of the new index for the test period divided by the index value for the first year that the index is adopted.

- O 13. The premium paid by MEHC for PacifiCorp (Acquisition Premium) will be excluded from the utility accounts of PacifiCorp. Further, MEHC and PacifiCorp commit that they will not propose to recover the Acquisition Premium in Oregon retail rates, or include the Acquisition Premium in PacifiCorp's results of operations, unless this commitment is modified by the Commission, pursuant to a filing under ORS 756.568, to allow for the recovery of the Acquisition Premium. MEHC and PacifiCorp will not request or support a motion to modify this commitment to allow recovery of the Acquisition Premium unless a party in a proceeding before the Commission proposes an adjustment to PacifiCorp's revenue requirement that MEHC and PacifiCorp assert violates the regulatory theory of the matching principle. If PacifiCorp seeks recovery of the Acquisition Premium, then other Parties are free to oppose such recovery, including the validity of the matching principle.

- O 14.a) In the event of a ratings downgrade by two or more rating agencies of PacifiCorp's senior long-term debt that occurs within 12 months after the Commission approves the Transaction or issues an order adopting acquisition commitments from other PacifiCorp states, whichever comes later (the "Baseline Date"), and at least one such agency identifies issues related to MEHC's acquisition of PacifiCorp as a cause of the ratings downgrade, the assumed yield for any incremental debt issued by PacifiCorp after the downgrade will be reduced by 10 basis points for each notch that PacifiCorp is downgraded below PacifiCorp's rating on the Baseline Date. Such adjustment will continue until the debt is no longer outstanding. In the case where one rating agency issues a rating downgrade, but not two or more rating agencies, denoted as a split rating, the adjustment shall be 5 basis points for each notch. The adjustment imposed by this commitment will be eliminated for debt issuances following the ratings upgrade of PacifiCorp equal to the rating on the Baseline Date. This Commitment is in lieu of Commitment 37, and a state must choose between this Commitment O 14 and Commitment 37.

- b) In the event that debt issued by PacifiCorp within 12 months after the Baseline Date is recalled and refinanced, PacifiCorp agrees to hold customers harmless, for the term of the debt, as compared to the revenue requirements pursuant to subparagraph a) and its basis point reductions, of the originally financed debt.

O 15.a) MEHC commits that immediately following the closing of the transaction, the acquiring company (PPW Holdings LLC) will have no debt in its capital structure. MEHC and PacifiCorp commit that the consolidated capital structure of PPW Holdings LLC will not contain common equity capital below the following percentages of its Total Capital as defined in Commitment 18b:

48.25% from the date of the close of the transaction through December 31, 2008;
47.25% from January 1, 2009 through December 31, 2009;
46.25% from January 1, 2010 through December 31, 2010;
45.25% from January 1, 2011 through December 31, 2011;
44.00% after December 31, 2011.

- b) MEHC and PacifiCorp commit that the consolidated capital structure of PPW Holdings LLC will not contain common equity capital below 35% of its Total Adjusted Capital as defined in Commitment 18c.
- c) MEHC will provide the Commission 30 days prior notice if PPW Holdings LLC intends to issue debt. MEHC and PacifiCorp acknowledge that if PPW Holdings LLC does issue debt, the Commission has the authority pursuant to a re-opener under ORS 757.568 limited to the consideration of additional ring-fencing provisions that may be appropriate.

O 16. MEHC commits that no amendments, revisions or modifications will be made to the ring-fencing provisions of Commitment 11 b) without prior Commission approval pursuant to a limited re-opener under ORS 757.568 for the sole purpose of addressing the ring-fencing provisions.

O 17. Within three months of closing of the transaction, MEHC commits to obtain a non-consolidation opinion that demonstrates that the ring fencing around PPW Holdings LLC is sufficient to prevent PPW Holdings LLC and PacifiCorp from being pulled into an MEHC bankruptcy. MEHC commits to promptly file such opinion with the Commission. If the ring-fencing provisions of this agreement are insufficient to obtain a non-consolidation opinion, MEHC agrees to promptly undertake the following actions:

- a) Notify the Commission of this inability to obtain a non-consolidation opinion.
- b) Propose and implement, upon Commission approval, such ring-fencing provisions that are sufficient to prevent PPW Holdings LLC from being pulled into an MEHC bankruptcy.
- c) Obtain a non-consolidation opinion.

O 18. MEHC and PacifiCorp commit that PacifiCorp will not make any dividends to PPW Holdings LLC or MEHC if PacifiCorp's unsecured debt rating is BBB- or

lower by S & P or Fitch (or Baa3 or lower by Moody's), as indicated by two of the three rating agencies.

- O 19. MEHC and PacifiCorp commit to support renewal of the 3% public purpose charge under ORS 757.612 beyond 2011, provided that the Commission supports the renewal, the report to the legislature required under ORS 757.617 concludes that the Energy Trust continues to operate in a reasonable manner, and the legislation renewing the 3% public purpose charge is not included in a bill that MEHC and PacifiCorp otherwise deem objectionable. Additionally, with respect to potential modifications to the 3% public purpose charge arising from the 2007 report to the legislature required under ORS 757.617, MEHC and PacifiCorp agree to oppose any modifications that reduce the public purpose charge to less than 3% annually. In addition, provided the report to the legislature concludes the Energy Trust has operated in a reasonable manner and the Commission renews its contract with the Energy Trust, MEHC and PacifiCorp will support the Energy Trust.
- O 20. MEHC and PacifiCorp acknowledge that the \$10 million low-income bill payment assistance under ORS 757.612 does not expire in 2011. MEHC and PacifiCorp will oppose any reduction in the current amount of the fund.
- O 21. MEHC commits to provide shareholder funding to hire a consultant to study and design for possible implementation of an arrearage management project for low-income customers that could be made applicable to Oregon and other states that PacifiCorp serves. PacifiCorp will provide a resource for facilitation of a working group to oversee the project. The study shall commence no later than 180 days after close of the transaction and be completed, through the issuance of a formal report to the Commission, no later than 365 days after close of the transaction. MEHC recognizes that such a program may have to be tailored to best fit the unique low-income environment of each individual state. The project will be developed by PacifiCorp in conjunction with the relevant regulatory and governmental agencies, low-income advocates, and other interested parties in each state that is interested in participating. The goals for the project will include reducing service terminations, reducing referral of delinquent customers to third party collection agencies, reducing collection litigation and reducing arrearages and increasing voluntary customer payments of arrearages. The costs of this study will be at least \$66,000 on a total company basis paid for by shareholders. If less than six states participate, the amount of the shareholder funds will be reduced proportionally.
- O 22. MEHC and PacifiCorp commit to a total contribution level for Oregon low-income bill payment assistance in the amount of \$400,000 annually, for a five-year period beginning July 1, 2006. The contributions may be comprised of contributions from corporate, employee, other sources, and customer donations. The corporate contribution will be recorded in non-utility accounts. Before the

end of the five-year period, MEHC and PacifiCorp commit to work with low-income advocates and customer groups to evaluate additional contributions.

- O 23. MEHC and PacifiCorp agree to include representatives of both Community Action Directors of Oregon and Oregon Energy Coordinators Association in the list of interested parties participating in the DSM study under Commitment 44.
- O 24. MEHC and PacifiCorp acknowledge current city franchise authority including but not limited to a city's authority to control the use of its rights of way and collect charges for the use of the city's rights of way, as set forth and authorized by applicable Oregon law. Before any efforts to seek a legislative or regulatory change, MEHC and PacifiCorp will enter into discussions with the League of Oregon Cities regarding said modifications.
- O 25. To the extent available, MEHC and PacifiCorp commit to have 400 MW of cost effective new renewable resources in PacifiCorp's generation portfolio by December 31, 2007. The 400 MW will include Wolverine Creek (64.5 MW) and Cove Fort (42 MW). MEHC and PacifiCorp will analyze the projects consistent with applicable regulatory rules and orders in effect at the time and as informed by the IRP. Resource identification shall be performed using an RFP procedure. If PacifiCorp fails to meet this 400 MW target it will disclose to signatories (excluding any bidders and affiliates of bidders) the cost-effectiveness analysis it used when rejecting the lowest cost projects. PacifiCorp shall file a report, on the status of meeting this target, with the Commission no later than six months after close of the transaction. In evaluating acquisition of renewable energy, all other things being equal, MEHC and PacifiCorp will not prefer ownership of facilities.
- O 26.a) Concurrent with its next IRP filing, PacifiCorp commits to file a ten-year plan for achieving the 1400 MW renewables target, including specific milestones over the ten years when resources will be added. The filing will include a ten-year plan for installing transmission that will facilitate the delivery of renewable energy and the achievement of its 2015 goal of at least 1400 MW of cost-effective renewable energy. Within six (6) months after the close of the transaction, MEHC and PacifiCorp will file with the Commission a preliminary plan for achieving the 1400 MW renewable target.
 - b) PacifiCorp commits to address as part of its next IRP the appropriate role of incremental hydropower projects in meeting the 1400 MW renewables target.
- O 27. MEHC and PacifiCorp will support cost effective and safe community renewable energy projects in Oregon using PURPA contracts implemented under avoided cost tariffs approved by the Commission. If PURPA is no longer in effect in Oregon before an alternate market for community renewable energy is developed, PacifiCorp will work with Oregon stakeholders and the Commission to develop replacement procedures for new contracts. For the purpose of this Commitment, community renewable energy projects are defined as: Locally owned renewable

energy projects, normally 1-10 MW standard contract PURPA projects and industrial co-gen type projects above 10 MW that use negotiated PURPA contracts. Projects can be: 1. Private ownership (example - several farmers in a wind project); 2. Municipal ownership (irrigation district small-hydro or local school; wind turbine); or 3. Combined municipal/private ownership projects (local community partnered with landowners).

- O 28. To the extent consistent with the interests of PacifiCorp's retail customers, MEHC and PacifiCorp will support through action and policy the emerging community renewable energy market in Oregon. PacifiCorp will also consult with community renewable energy representatives if PacifiCorp is contemplating changes to system operations that would adversely affect community renewable energy projects.
- O 29. MEHC and PacifiCorp agree that once a FERC license is issued and (a) PacifiCorp either (i) affirmatively accepts the license, or (ii) is deemed to have accepted the license pursuant to the terms of the license and FERC rules and procedures, and (b) the license's conditions are not subject to further appeals, PacifiCorp shall have the ability to fund implementation of all final license conditions. This provision is generally applicable, but also specifically applies to the following PacifiCorp hydropower projects: Klamath, Lewis River, and Prospect.
- O 30. MEHC and PacifiCorp renew PacifiCorp's commitment to implement the Condit (FERC No. 2342, settlement signed Sept. 22, 1999, amended Feb. 28th, 2005), Lewis (FERC Nos. 935, 2071, 2111, 2213, settlement signed November 30, 2004) and Powerdale (FERC No. 2659, settlement signed June 26, 2003), settlement agreements. As circumstances evolve, PacifiCorp will continue to approach the agreements in a spirit of cooperation with other stakeholders and to attempt through constructive dialog with the parties to find ways to accomplish the goals identified in the agreements. MEHC and PacifiCorp agree to make reasonable attempts to accomplish the objectives of those agreements even in the face of changing circumstances, to the extent it is consistent with customer interests.
- O 31. MEHC and PacifiCorp commit to form an IGCC Working Group, sponsored by PacifiCorp to discuss various policy and technology issues associated with IGCC, carbon capture, and sequestration. Working Group members would include representatives from major stakeholder and regulatory groups, PacifiCorp and MEHC officials, and others as appropriate. The Working Group will include Oregon stakeholders as well. Some issues and challenges to development that would be considered by the Working Group would include:
- the status of development of carbon sequestration policy and methods, including requirements for monitoring and verifying sequestration options;
 - information sharing, so that, to the extent possible, all parties develop a shared understanding of expected IGCC technology benefits, expected capital and O&M costs, and potential risks;

- information sharing to understand such terms and associated requirements with concepts such as “carbon capture ready” and “permanent sequestration”;
- issues related to technology of and permitting for IGCC air emissions, waste disposal, water use and site usage;
- commercial terms and conditions associated with IGCC plant development, construction, and maintenance; and
- implications of Utah SB 26 on development of IGCC plants given the implications of long development lead times, development costs, project risk, and cost uncertainty.
- the allocation of risk between shareholders and ratepayers of additional carbon dioxide emissions in the event PacifiCorp proceeds with a coal unit that is not able to capture and store carbon emissions.

The IGCC Working Group would meet periodically to discuss the above issues and identify possible solutions, and to stay abreast of the evolving technology and commercial environment.

O 32. MEHC and PacifiCorp commit to the following:

- a) MEHC and PacifiCorp commit to study the economics and viability of an IGCC option and will present the results of this study as a resource alternative to inform the resource selection and RFP process under consideration in Docket 05-035-47. PacifiCorp will also file the results of this study and the draft RFP with the OPUC for review and public comment. PacifiCorp will suggest procedural schedules that will facilitate this commitment. As soon as practical, but not later than three months after the closing of the transaction, PacifiCorp will provide to the parties estimated cost and timeline ranges for completion of an IGCC project, as well as potential resource alternatives if an IGCC design is not reasonably achievable in time to economically meet the resource need presently identified in 2012 from a customer and shareholder perspective.
- b) PacifiCorp will perform initial conceptual and siting studies, general feasibility studies, and, where appropriate, other more detailed studies and engineering work, for an IGCC plant for the 2014 resource need identified in the October 2005 IRP Update. The studies will include an evaluation of the expected cost and performance impacts of constructing a plant to be carbon capture ready. These studies will be performed in parallel with similar studies to evaluate other generation technologies. Such studies will be completed within the next IRP cycle.
- c) PacifiCorp will include a utility self-build option of an IGCC unit in any RFPs for the 2014 and later non-renewable resource needs, whether or not the IGCC option is found to be PacifiCorp’s preferred cost-based alternative, and present PacifiCorp’s evaluation of the IGCC option against another self-build alternative(s) as part of the Utah SB 26 process. This will include an

evaluation of the cost and performance impacts of the IGCC resource being constructed to be carbon capture ready.

- O 33 Prior to January 1, 2016, MEHC and PacifiCorp will not support Oregon legislation to eliminate or impair retail access as defined by SB 1149 and relevant Commission rules.
- O 34. MEHC and PacifiCorp acknowledge that the Commitments are being made by MEHC and PacifiCorp and are binding only upon them (and their affiliates where noted). MEHC and PacifiCorp are not requesting in this proceeding a determination of the prudence, just and reasonable character, rate or ratemaking treatment, or public interest of the investments, expenditures or actions referenced in the Commitments, and the Parties in appropriate proceedings may take such positions regarding the prudence, just and reasonable character, rate or ratemaking treatment, or public interest of the investments, expenditures or actions as they deem appropriate.

APPENDIX 1

PPW HOLDINGS LLC RINGFENCING PROVISIONS

1. Purposes.

(a) The purposes of the Company are to engage in the following activities:

1. to purchase and own 100% of the capital stock in PacifiCorp (“**PacifiCorp**”); and any equity interest therein, an “**Equity Interest**”);

2. in connection with the purchase of the Equity Interest, to negotiate, authorize, execute, deliver and perform documents including, but not limited to, that certain Assignment and Assumption of Stock Purchase Agreement between the Member and the Company pursuant to which the Member will assign to the Company all of the Member’s rights and obligations under that certain Stock Purchase Agreement, between the Member and the other persons parties thereto, dated as of May 23, 2005 and any other agreement or document contemplated thereby (the “**Transaction Documents**”); and

3. to do such other things and carry on any other activities, and only such things and activities, which the Board, defined herein, determines to be necessary, convenient or incidental to any of the foregoing purposes, and to have and exercise all of the power and rights conferred upon limited liability companies formed pursuant to the Act in furtherance of the foregoing.

(b) The Company, by or through one or more Officers of the Company, may enter into and perform the Transaction Documents and all documents, agreements, certificates or financing statements contemplated thereby or related thereto, with such final terms and provisions as the Officer or Officers of the Company executing the same shall approve, his or their execution thereof to be conclusive evidence of his or such approval, all without any further act, vote or approval of the Member, the Board of Directors or any other Officer notwithstanding any other provision of this Agreement, the Act or applicable law, rule or regulation. All actions taken by the Member, any Director or Officer on behalf of the Company or on behalf of any of its affiliates prior to the date hereof, to effect the transactions contemplated by the Transaction Documents or the formation of the Company, are hereby ratified, approved and confirmed in all respects. Simultaneously with or following the execution of this Agreement the Company may enter into each of the Transaction Documents with such final terms and provisions as the Officer or Officers of the Company executing the same shall approve, his or their execution thereof to be conclusive evidence of his or their approval.

2. Management.

(a) *Board of Directors.* The business and affairs of PPW Holdings, LLC (the “**Company**”) shall be managed by or under the direction of a board of one or more Directors (the “**Board**”); provided that from and after the purchase of an equity interest in PacifiCorp (an “**Equity Interest**”), and for so long as the Company shall own an Equity Interest, one of the members of the Board shall be an Independent Director.

An “**Independent Director**” shall mean a member of the Board who is not at the time of initial appointment, or at any time while serving on the Board, and has not been at any time during the preceding five (5) years: (a) a member, stockholder, director (except as such Independent Director of the Company), officer, employee, partner, attorney or counsel of the Company or any affiliate of the Company; (b) a creditor, customer other than a consumer, supplier or other person who has derived in any one of the preceding (5) calendar years revenues from its activities with the Company or any affiliate of the Company (except as such Independent Director); (c) a person related to or employed by any person described in clause (a) or clause (b) above, or (d) a trustee, conservator or receiver for the Company or any affiliate of the Company. As used in this definition, “affiliate” shall have the meaning given to such term under Rule 405 under the Securities Act of 1933, as amended.

Except as otherwise provided in this Section 1(a) with respect to the Independent Director, MidAmerican Energy Holdings Company (the “**Member**”) by unanimous vote or unanimous written consent, may determine at any time in its sole and absolute discretion, the number of Directors to constitute the Board. The initial number of Directors shall be two. At the time of the purchase of an Equity Interest by the Company, if one of the Directors is not then a qualified Independent Director, the number of Directors on the Board shall be automatically increased by one, such additional position to be filled as soon as practicable by an Independent Director selected by a majority vote of all of the Directors then in office. Each Director elected, designated or appointed shall hold office until a successor is elected and qualified or until such Director's earlier death, resignation or removal. Each Director shall be a “manager” within the meaning of the Limited Liability Company Act of the State of Delaware (the “**Act**”).

(b) *Powers.* Subject to this Section 1, the Board shall have the power to do any and all acts necessary, convenient or incidental to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise. Except as provided in the certificate and subject to Section 2(e), the Board has the authority to bind the Company by a majority of the votes held by the Directors. For purposes of voting, each Director shall have one vote.

(c) *Quorum; Acts of the Board.* At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business and, except as otherwise provided in any other provision of this Agreement or in the certificate of incorporation, the act of a majority of the votes held by the Directors present at any meeting at which there is a quorum shall be the act of the Board. In the case of an act which requires the unanimous vote of the Directors and/or the vote of the Independent Director, only the presence at the subject meeting of all of the Directors, including the Independent Director, shall constitute a quorum. If a quorum shall not be present at any meeting of the Board, the Directors present at such meeting may adjourn the meeting from time to time, without written notice other than announcement at the meeting, until a quorum shall be present.

(d) *Removal of Directors.* Unless otherwise restricted by law, any Director or the entire Board may be removed, with or without cause, by the Member, and subject to Section 2, any vacancy caused by any such removal may be filled by action of the Member. In the event of the removal of the Independent Director or other event that causes the Independent Director to cease to be an Independent Director on the Board, no action requiring the vote of the

Independent Director shall take place until such time as a replacement Independent Director is elected to the Board by the Member.

(e) *Limitations on the Company's Activities.*

1. This Section 2(e) is being adopted in order to qualify the Company as a “special purpose entity” and so long as the Company holds or owns an Equity Interest, this Section 2(e) shall govern the activities of the Company notwithstanding any other provision of this Agreement.

2. So long as the Company holds or owns an Equity Interest, the Board shall cause the Company to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights (charter and statutory) and franchises. At all times, unless otherwise provided in that certain Stock Purchase Agreement, between the Member and the other persons parties thereto, dated as of May 23, 2005 and any other agreement or document contemplated thereby (the “**Transaction Documents**”), the Board shall cause the Company to:

- a) maintain its own separate books and records, financial statements, and bank accounts;
- b) except for tax and accounting purposes, at all times hold itself out to the public as a legal entity separate from the Member and any other Person and not identify itself as a division of any other Person;
- c) have a Board, the composition of which in sum is unique from that of any other Person;
- d) file its own tax returns, if any, as may be required under applicable law, and pay any taxes required to be paid under applicable law;
- e) not commingle its assets with assets of any other Person;
- f) conduct its business in its own name and hold all of its assets in its own name;
- g) pay its own liabilities only out of its own funds;
- h) maintain an arm's length relationship with its affiliates, including its Member;
- i) from its own funds, pay the salaries of its own employees;
- j) not hold out its credit as being available to satisfy the obligations of others;

- k) maintain its own office and telephone line separate and apart from its affiliates, although it may lease space from an affiliate and share a phone line with an affiliate, having either a separate number or extension, and in furtherance thereof allocate fairly and reasonably any overhead for shared office space;
- l) use separate stationery, invoices and checks bearing its own name;
- m) not pledge its assets for the benefit of any other Person;
- n) correct any known misunderstanding regarding its separate identity;
- o) maintain adequate capital and an adequate number of employees in light of its contemplated business purposes; and
- p) not acquire any obligations or securities of the Member or its affiliates, other than an Equity Interest.

Failure of the Company to comply with any of the foregoing covenants shall not affect the status of the Company as a separate legal entity or the limited liability of the Member or the Directors.

3. So long as the Company holds or owns an Equity Interest and unless otherwise provided in the Transaction Documents, the Company shall not:

- a) become or remain liable, directly or contingently, in connection with any indebtedness or other liability of any other person or entity, whether by guarantee, endorsement (other than endorsements of negotiable instruments for deposit or collection in the ordinary course of business), agreement to purchase or repurchase, agreement to supply or advance funds, or otherwise;
- b) grant or permit to exist any lien, encumbrance, claim, security interest, pledge or other right in favor of any person or entity in the assets of the Company or any interest (whether legal, beneficial or otherwise) in any thereof;
- c) engage, directly or indirectly, in any business other than as permitted to be performed under the Company's limited liability company operating agreement;
- d) make or permit to remain outstanding any loan or advance to, or own or acquire (a) indebtedness issued by any other person or entity, or (b) any stock or securities of or interest in, any person or entity, other than the Equity Interest;
- e) enter into, or be a party to, any transaction with any of its affiliates, except (A) in the ordinary course of business, (B) pursuant to the

reasonable requirements and purposes of its business and (C) upon fair and reasonable terms (and, to the extent material, pursuant to written agreements)) that are consistent with market terms of any such transactions entered into by unaffiliated parties;

- f) make any change to its name or principal business or use of any trade names, fictitious names, assumed names or “doing business as” names.

4. So long as the Company holds or owns an Equity Interest, none of the Company, the Member or the Board shall be authorized or empowered, nor shall they permit the Company, without the prior unanimous written consent of all of the Directors on the Board, including the Independent Director, (a) to consolidate, merge, dissolve, liquidate or sell all or substantially all of the Company’s assets or (b) to institute proceedings to have the Company adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Company or file a voluntary petition seeking, or consent to, reorganization or relief with respect to the Company under any applicable federal or state law relating to bankruptcy, or consent to appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or a substantial part of its property, or make any assignment for the benefit of creditors of the Company, or admit in writing the Company’s inability to pay its debts generally as they become due, or to the fullest extent permitted by law, to take any action in furtherance of any such action. Moreover, the Board may not vote on, or authorize the taking of, any of the foregoing actions unless there is at least one Independent Director then serving in such capacity.

(f) Limitations on Distributions. So long as the Company owns or holds an Equity Interest, the Company shall not permit PacifiCorp to declare or make any Distribution to the Company or any other person that owns or holds an Equity Interest, unless, on the date of such Distribution, either:

1. at the time and as a result of such Distribution, PacifiCorp’s Leverage Ratio does not exceed 0.65:1 and PacifiCorp’s Interest Coverage Ratio is not less than 2.5:1; or

2. (if PacifiCorp is not in compliance with the foregoing ratios) at such time, PacifiCorp’s senior unsecured long term debt rating is at least BBB (or its then equivalent) with Standard & Poor’s Ratings Group and Baa2 (or its then equivalent) with Moody’s Investors Service, Inc.

For purposes of this Section 2(f), the following terms shall be defined as follows:

“**Capitalized Lease Obligations**” means all lease obligations of PacifiCorp and its Subsidiaries which, under GAAP, are or will be required to be capitalized, in each case taken at the amount thereof accounted for as indebtedness in conformity with such principles.

“Consolidated Current Liabilities” means the consolidated current liabilities of PacifiCorp and its Subsidiaries, but excluding the current portion of long term Indebtedness which would otherwise be included therein, as determined on a consolidated basis in accordance with GAAP.

“Consolidated Debt” means, at any time, the sum of the aggregate outstanding principal amount of all Indebtedness for Borrowed Money (including, without limitation, the principal component of Capitalized Lease Obligations, but excluding Currency, Interest Rate or Commodity Agreements and all Consolidated Current Liabilities) of PacifiCorp and its Subsidiaries, as determined on a consolidated basis in conformity with GAAP.

“Consolidated EBITDA” means, for any period, the sum of the amounts for such period of PacifiCorp’s (i) Consolidated Net Operating Income, (ii) Consolidated Interest Expense, (iii) income taxes and deferred taxes (other than income taxes (either positive or negative) attributable to extraordinary and non-recurring gains or losses or sales of assets), (iv) depreciation expense, (v) amortization expense, and (vi) all other non-cash items reducing Consolidated Net Operating Income, less all non-cash items increasing Consolidated Net Operating Income, all as determined on a consolidated basis in conformity with GAAP; *provided*, that to the extent PacifiCorp has any Subsidiary that is not a wholly owned Subsidiary, Consolidated EBITDA shall be reduced by an amount equal to the Consolidated Net Operating Income of such Subsidiary multiplied by the quotient of (A) the number of shares of outstanding common stock of such Subsidiary not owned on the last day of such period by PacifiCorp or any Subsidiary of PacifiCorp divided by (B) the total number of shares of outstanding common stock of such Subsidiary on the last day of such period.

“Consolidated Interest Expense” means, for any period, the aggregate amount of interest in respect of Indebtedness for Borrowed Money (including amortization of original issue discount on any Indebtedness and the interest portion on any deferred payment obligation, calculated in accordance with the effective interest method of accounting; and all commissions, discounts and other fees and charges owed with respect to bankers’ acceptance financing) and the net costs associated with Interest Rate Agreements and all but the principal component of rentals in respect of Capitalized Lease Obligations, paid, accrued or scheduled to be paid or to be accrued by PacifiCorp and each of its Subsidiaries during such period, excluding, however, any amount of such interest of any Subsidiary of PacifiCorp if the net operating income (or loss) of such Subsidiary is excluded from the calculation of Consolidated Net Operating Income for such Subsidiary pursuant to clause (ii) of the definition thereof (but only in the same proportion as the net operating income (or loss) of such Subsidiary is excluded), less consolidated interest income, all as determined on a consolidated basis in conformity with GAAP; *provided* that, to the extent that PacifiCorp has any Subsidiary that is not a wholly owned Subsidiary, Consolidated Interest Expense shall be reduced by an amount equal to such interest expense of such Subsidiary multiplied by the quotient of (A) the number of shares of outstanding common stock of such Subsidiary not owned on the last day of such period by PacifiCorp or any Subsidiary of PacifiCorp divided by (B) the total

number of shares of outstanding common stock of such Subsidiary on the last day of such period.

“Consolidated Net Operating Income” means, for any period, the aggregate of the net operating income (or loss) of PacifiCorp and its Subsidiaries for such period, as determined on a consolidated basis in conformity with GAAP; *provided* that the following items shall be excluded from any calculation of Consolidated Net Operating Income (without duplication): (i) the net operating income (or loss) of any person (other than a Subsidiary) in which any other person has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to PacifiCorp or another Subsidiary of PacifiCorp during such period; (ii) the net operating income (or loss) of any Subsidiary to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of such net operating income is not at the time permitted by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation or license; and (iii) all extraordinary gains and extraordinary losses.

“Currency, Interest Rate or Commodity Agreements” means an agreement or transaction involving any currency, interest rate or energy price or volumetric swap, cap or collar arrangement, forward exchange transaction, option, warrant, forward rate agreement, futures contract or other derivative instrument of any kind for the hedging or management of foreign exchange, interest rate or energy price or volumetric risks, it is being understood, for purposes of this definition, that the term “energy” shall include, without limitation, coal, gas, oil and electricity.

“Distribution” means any dividend, distribution or payment (including by way of redemption, retirement, return or repayment) in respect of shares of capital stock of PacifiCorp.

“GAAP” means generally accepted accounting principles in the United States as in effect from time to time.

“Indebtedness” means, with respect to PacifiCorp or any of its Subsidiaries at any date of determination (without duplication), (i) all Indebtedness for Borrowed Money, (ii) all obligations in respect of letters of credit or other similar instruments (including reimbursement obligations with respect thereto), (iii) all obligations to pay the deferred and unpaid purchase price of property or services, which purchase price is due more than six months after the date of placing such property in service or taking delivery and title thereto or the completion of such services, except trade payables, (iv) all Capitalized Lease Obligations, (v) all indebtedness of other persons secured by a mortgage, charge, lien, pledge or other security interest on any asset of PacifiCorp or any of its Subsidiaries, whether or not such indebtedness is assumed; *provided*, that the amount of such Indebtedness shall be the lesser of (A) the fair market value of such asset at such date of determination, and (B) the amount of the secured indebtedness, (vi) all indebtedness of other persons of the types specified in the preceding clauses (i) through (v), to the extent such indebtedness is guaranteed by PacifiCorp or any of its Subsidiaries, and (vii) to the extent not otherwise included in this definition, obligations under

Currency, Interest Rate or Commodity Agreements. The amount of Indebtedness at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, upon the occurrence of the contingency giving rise to the obligation, the maximum liability of any contingent obligations of the types specified in the preceding clauses (i) through (vii) at such date; *provided*, that the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with GAAP.

“Indebtedness for Borrowed Money” means any indebtedness (whether being principal, premium, interest or other amounts) for (i) money borrowed, (ii) payment obligations under or in respect of any trade acceptance or trade acceptance credit, or (iii) any notes, bonds, debentures, debenture stock, loan stock or other debt securities offered, issued or distributed whether by way of public offer, private placement, acquisition consideration or otherwise and whether issued for cash or in whole or in part for a consideration other than cash; *provided, however*, in each case that such term shall exclude any indebtedness relating to any accounts receivable securitizations.

“Interest Coverage Ratio” means, with respect to PacifiCorp on any Measurement Date, the ratio of (i) the aggregate amount of Consolidated EBITDA of PacifiCorp for the four fiscal quarters for which financial information in respect thereof is available immediately prior to such Measurement Date to (ii) the aggregate Consolidated Interest Expense during such four fiscal quarters.

“Leverage Ratio” means the ratio of Consolidated Debt to Total Capital, calculated on the basis of the most recently available consolidated balance sheet of PacifiCorp and its consolidated Subsidiaries (provided that such balance sheet is as of a date not more than 90 days prior to a Measurement Date) prepared in accordance with GAAP.

“Measurement Date” means the record date for any Distribution.

“Subsidiary” means, with respect to any person, any corporation, association, partnership, limited liability company or other business entity of which 50% or more of the total voting power of shares of capital stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the same time owned, directly or indirectly, by (i) such person, (ii) such person and one or more Subsidiaries of such person, or (iii) one or more Subsidiaries of such person.

“Total Capital” of any person is defined to mean, as of any date, the sum (without duplication) of (a) Indebtedness for Borrowed Money, and (b) consolidated stockholder’s equity of such person and its consolidated Subsidiaries.”

3. Independent Director.

From the time an Independent Director is initially appointed and for so long as the Company holds or owns an Equity Interest, the Company shall at all times have at least one

Independent Director who, except as provided in Section 2(a), will be appointed by the Member. To the fullest extent permitted by Section 18-1101(c) of the Act, the Independent Director shall consider only the interests of the Company, including its respective creditors, in acting or otherwise voting on the matters that come before them. No Independent Director shall at any time serve as trustee in bankruptcy for any affiliate of the Company.

4. Enforcement by Independent Director.

Notwithstanding any other provision of the Company's limited liability operating agreement, the Member agrees that such agreement constitutes a legal, valid and binding agreement of the Member, and is enforceable against the Member by the Independent Director, in accordance with its terms. In addition, the Independent Director shall be an intended beneficiary of the agreement.

5. Dissolution.

(a) The Company shall be dissolved, and its affairs shall be wound up only upon the entry of a decree of judicial dissolution under Section 18-802 of the Act; and shall not dissolve prior to the occurrence of such event, provided, however, to the fullest extent permitted by law, the Member and the Directors shall not make an application under Section 18-802 of the Act so long as the Company holds or owns an Equity Interest.

(b) So long as the Company owns or holds an Equity Interest, the Member shall cause the Company to have, at all times, at least one person who shall automatically become a member having 0% economic interest in the Company (the "**Springing Member**") upon the dissolution of the Member or upon the occurrence of any other event that causes the Member to cease being a member of the Company. Upon the occurrence of any such event, the Company shall be continued without dissolution and the Springing Member shall, without any action of any person or entity, automatically and simultaneously become a member of the Company having a 0% economic interest in the Company and the Personal Representative(s) (as defined in the Act) of the Member shall automatically become an unadmitted assignee of the Member, being entitled thereby only to the distributions to which the Member was entitled hereunder and any other right conferred thereupon by the Act. In order to implement the admission of the Springing Member as a member of the Company, the Springing Member has executed a counterpart to this Agreement as of the date hereof. Pursuant to Section 18-301 of the Act, the Springing Member shall not be required to make any capital contributions to the Company and shall not receive any limited liability company interest in the Company. Prior to its admission to the Company as a member of the Company pursuant to this Section 24(b), the Springing Member shall have no interest (economic or otherwise) and is not a member of the Company.

(c) Notwithstanding any other provision of this Agreement, the Bankruptcy of a Member shall not cause the Member to cease to be a member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution. Notwithstanding any other provision of this Agreement, the Member waives any right they might have under Section 18-801(b) of the Act to agree in writing to dissolve the Company upon the Bankruptcy of a Member or the occurrence of any other event that causes such Member to cease

to be a member of the Company. **“Bankruptcy”** means, with respect to a Member, if the Member (i) makes an assignment for the benefit of creditors, (ii) files a voluntary petition in bankruptcy, (iii) is adjudged a bankrupt or insolvent, or has entered against itself an order for relief, in any bankruptcy or insolvency proceeding, (iv) files a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any proceeding of this nature, (vi) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the Member or of all or any substantial part of its properties, or (vii) 120 days after the commencement of any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law or regulation, if the proceedings have not been dismissed, or if within 90 days after the appointment, without the Member’s consent or acquiescence, of a trustee, receiver or liquidator of the Member or of all or any substantial part of its properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated. With respect to the Member, the foregoing definition of **“Bankruptcy”** is intended to replace and shall supersede the definition of **“bankruptcy”** set forth in Sections 18-101(1) and 18-304 of the Act.

(d) In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act. Upon completion of the winding up process, the Board shall cause the execution and filing of a Certificate of Cancellation in accordance with Section 18-203 of the Act.

6. Amendments.

Neither this Agreement nor the Certificate may be modified, altered, supplemented or amended (each such event being referred to as a **“Change”**) except pursuant to a written agreement executed and delivered by the Member. So long as the Company holds or owns an Equity Interest and PacifiCorp or any subsidiary thereof has any debt outstanding that is rated by Standard & Poor’s, Moody’s Investors Service, or by Fitch Ratings (each, a **“Rating Agency”**), no Change shall take effect unless (i) each Rating Agency rating such debt shall have delivered a written confirmation that such Change will not result in the downgrade or withdrawal of any such rating assigned by it to such debt, and (ii) the Independent Director shall have approved the Change in a vote of Directors if the Change relates to Section 1, Section 2(i) or Section 3; provided that none of the conditions identified in either of clause (i) or (ii) hereof needs be satisfied if the Change is designed to: (x) cure any ambiguity or internal inconsistency in this Agreement or the Certificate or (y) convert or supplement any provision hereof in a manner consistent with the intent of this Agreement or the Certificate.

APPENDIX 2

line	TABLE 1 System											
	Millions & \$'s	2006*	2007	2008	2009	2010	2011	2012	2013	2014	2015	10-yr Total
Components (System)												
1	West Valley	5.00	5.00	2.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	12.10
2	Corporate Overheads	1.50	1.50	1.50	1.50	1.50	0.00	0.00	0.00	0.00	0.00	7.50
3	Insurance Captive	4.29	4.29	4.29	4.29	4.29	0.00	0.00	0.00	0.00	0.00	21.45
4	Services Provided to Affiliate - Fixed	1.50	1.50	1.50	1.50	1.50	0.00	0.00	0.00	0.00	0.00	7.50
5	Services Provided to Affiliate - Non Fixed	6.40	6.40	6.40	6.40	6.40	6.40	6.40	6.40	6.40	6.40	64.00
6	A&G reductions	6.00	6.00	6.00	6.00	6.00	0.00	0.00	0.00	0.00	0.00	30.00
7	Gross Total System Rate Credit	24.69	24.69	21.79	19.69	19.69	6.40	6.40	6.40	6.40	6.40	142.55
Potential Offsets: (System)												
8	West Valley	5.00	5.00	2.10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	12.10
9	Corporate Overheads	1.50	1.50	1.50	1.50	1.50	0.00	0.00	0.00	0.00	0.00	7.50
10	Insurance Captive	4.29	4.29	4.29	4.29	4.29	0.00	0.00	0.00	0.00	0.00	21.45
11	Services Provided to Affiliate - Fixed	1.50	1.50	1.50	1.50	1.50	0.00	0.00	0.00	0.00	0.00	7.50
12	Services Provided to Affiliate - Non Fixed	6.40	6.40	6.40	6.40	6.40	6.40	6.40	6.40	6.40	6.40	64.00
13	A&G reductions	6.00	6.00	6.00	6.00	6.00	0.00	0.00	0.00	0.00	0.00	30.00
14	Total Offsets	24.69	24.69	21.79	19.69	19.69	6.40	6.40	6.40	6.40	6.40	142.55
15	Guaranteed Rate Credit (Gross - Total Offsets)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

* The first year's rate credit will be prorated based on the closing date of the transaction

line	TABLE 2 Oregon Allocated											
	Millions & \$'s	2006*	2007	2008	2009	2010	2011	2012	2013	2014	2015	10-yr Total
Gross Rate Credit* - Total Company												
		24.69	24.69	21.79	19.69	19.69	6.40	6.40	6.40	6.40	6.40	142.55
Guaranteed Gross Rate Credit* - Total Company												
		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
* Assumes all states adopt the Oregon Rate Credit												
Gross Oregon-Allocated Rate Credit												
		6.91	6.91	6.10	5.51	5.51	1.79	1.79	1.79	1.79	1.79	39.91
Guaranteed Oregon-Allocated Rate Credit												
		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Components (Oregon Allocated)												
O1	West Valley	1.40	1.40	0.59	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3.39
O2	Corporate Overheads	0.42	0.42	0.42	0.42	0.42	0.00	0.00	0.00	0.00	0.00	2.10
O3	Insurance Captive	1.20	1.20	1.20	1.20	1.20	0.00	0.00	0.00	0.00	0.00	6.01
O4	Services Provided to Affiliate - Fixed	0.42	0.42	0.42	0.42	0.42	0.00	0.00	0.00	0.00	0.00	2.10
O5	Services Provided to Affiliate - Non Fixed	1.79	1.79	1.79	1.79	1.79	1.79	1.79	1.79	1.79	1.79	17.92
O6	A&G reductions	1.68	1.68	1.68	1.68	1.68	0.00	0.00	0.00	0.00	0.00	8.40
O7	Gross Oregon-Allocated Rate Credit	6.91	6.91	6.10	5.51	5.51	1.79	1.79	1.79	1.79	1.79	39.91
Potential Offsets: (Oregon Allocated)												
O8	West Valley	1.40	1.40	0.59	0.00	0.00	0.00	0.00	0.00	0.00	0.00	3.39
O9	Corporate Overheads	0.42	0.42	0.42	0.42	0.42	0.00	0.00	0.00	0.00	0.00	2.10
O10	Insurance Captive	1.20	1.20	1.20	1.20	1.20	0.00	0.00	0.00	0.00	0.00	6.01
O11	Services Provided to Affiliate - Fixed	0.42	0.42	0.42	0.42	0.42	0.00	0.00	0.00	0.00	0.00	2.10
O12	Services Provided to Affiliate - Non Fixed	1.79	1.79	1.79	1.79	1.79	1.79	1.79	1.79	1.79	1.79	17.92
O13	A&G reductions	1.68	1.68	1.68	1.68	1.68	0.00	0.00	0.00	0.00	0.00	8.40
O14	Total Offsets	6.91	6.91	6.10	5.51	5.51	1.79	1.79	1.79	1.79	1.79	39.91
O15	Guaranteed Rate Credit (Gross - Total Offsets)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

* The first year's rate credit will be prorated based on the closing date of the transaction

Note: The Oregon allocated share of the rate credits has been estimated using a 28% allocation factor.
The actual Oregon allocated share will be determined using the relevant then-applicable test period allocation factors.

UM 1209 A&G Stretch

APPENDIX 3

Cost Category	Amount	Description	
UE 170 A&G Costs	\$251,199,908	From UE 170 (Weston Page 2.15) - FERC Accounts 920 - 935.	
(minus):			
Non-labor A&G Adjustment	(\$17,678,571)	Staff's UE 170 \$6.057 million Oregon-allocated adjustment in system-wide amount minus SPUK Oregon-allocated adjustment, \$1.107 million, to prevent double counting with Corporate Overhead condition. (From workpapers (attached to e-mail) and final stipulated amount Order 05-1050. Partial Stipulation paragraph 5.e. page 4 of 13.)	
Incentives Adjustment	(\$3,064,951)	Staff's UE 170 \$5.434 million Oregon-allocated adjustment in system-wide amounts attributable to A&G Accounts (see calculation below) (From Order 05-1050. Partial Stipulation paragraph 5.d. page 4 of 13.	
Benefits Adjustment	(\$1,359,318)	Staff's UE 170 \$2.410 million Oregon-allocated adjustment in system-wide amounts attributable to A&G Accounts (see calculation below) (From Second Partial Stipulation, paragraph 5, page 2 of 9).	
Management Fee Off-set	(\$1,532,485)	From Staff 1300 (UM 1209 - pages 8 and 9.	
Affiliate Payment Off-set	\$0	\$7.93 was removed as it was not included in the \$251 million (Secondary & Duplicate Labor). From Staff 1300 (pages 10 and 11) and UE 170 Weston 2.15 and 4.18, page 9.	
Pension Adjustment	\$744,386	UE 170, Appendix H, S-3, \$1.32 million increase adjustment system attributable to A&G.	
WSCC Adjustment	\$535,714	UE 170, Appendix H, P-4, \$.250 million increase adjustment system; 60% to WSCC.	
Baseline A&G	\$228,844,684		
Stretch Goal	\$222,844,684	Baseline A&G minus \$6.0 Stretch Goal.	
Incentive / Benefit Attributable		Taken from UE 170; Weston 4.18, page 9.	
	<u>Incentive</u>	<u>Benefit</u>	<u>Pension</u>
Account 920 SO	\$9,637,287	\$16,877,535	
Account 921 SO	(\$2,002)	(\$3,505)	
Account 922 SO	(\$1,891,289)	(\$3,312,166)	
Account 923 SO	(\$306,251)	(\$536,329)	
Account 929 SO	(\$121,531)	(\$212,834)	
Account 935 Oregon	\$28,158	\$49,312	
Account 935 SO	\$405,024	\$709,309	
Total A&G	\$7,749,396	\$13,571,322	
PacifiCorp Total	\$49,068,860	\$85,933,044	\$80,376,959
Percent Total Attributable to A&G	15.79%	15.79%	15.79%
UE 170 Adjustment Amount	(\$19,407,143)	(\$8,607,143)	\$4,714,286
			System-wide Numbers (Oregon-allocated = \$5.434 million for incentives; \$2.410 million for benefits; and \$1.32 million for pensions).
Adjustment Amount Attributable to A&G	(\$3,064,951)	(\$1,359,318)	\$744,386

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1209

In the Matter of MIDAMERICAN
ENERGY HOLDINGS COMPANY
Application for Authorization to Acquire
Pacific Power & Light (dba PacifiCorp)

MEHC-PACIFICORP-STAFF-CUB-ICNU-RNP-NRDC-CADO/OECA-LEAGUE OF
OREGON CITIES-SHERMAN COUNTY-PCFFA

JOINT TESTIMONY IN SUPPORT OF STIPULATION

December 2005

I. INTRODUCTION

1
2 **Q. Please state your names and positions.**

3 A. My name is Brent Gale. I am Senior Vice-President, Legislation & Regulation, for
4 MidAmerican Energy Company, a subsidiary of MidAmerican Energy Holdings
5 Company (“MEHC”).

6 My name is Andrea Kelly. I am Managing Director, Strategy, for PacifiCorp. I hold a
7 Bachelor’s degree in Economics from the University of Vermont and an MBA in
8 Environmental and Natural Resource Management from the University of Washington.
9 After graduate school, I joined the Staff of the Washington Utilities and Transportation
10 Commission (WUTC) as a Rate Research Specialist. In 1995, I became employed by
11 PacifiCorp first in the Regulation Department and since 2000, in Strategy and Major
12 Projects. I now lead the MEHC Transaction Approvals Team at PacifiCorp.

13 My name is Bryan Conway. I am Program Manager of the Economic and Policy
14 Analysis Section, Economic Research and Financial Analysis Division, for Staff of the
15 Public Utility Commission of Oregon (“Staff”).

16 My name is Bob Jenks. I am Executive Director of the Citizens’ Utility Board (“CUB”).

17 My name is Michael Early. I am the Executive Director of Industrial Customers of
18 Northwest Utilities (“ICNU”).

19 My name is Rachel Shimshak. I am the Director of Renewable Northwest Project
20 (“RNP”). I am also providing testimony on behalf of Natural Resources Defense
21 Council (“NRDC”).

22 My name is Jim Abrahamson. I am the Energy Partnership Coordinator for the
23 Community Action Directors of Oregon (“CADO”), and I am providing testimony on
24 behalf of CADO and the Oregon Energy Coordinators Association (“OECA”).

1 My name is Andrea Fogue. I am a Senior Staff Associate for League of Oregon Cities.

2 My name is Paul Woodin of Western Wind Power and I have provided expert witness
3 testimony for Sherman County.

4 My name is Glen Spain. I am Northwest Regional Director of the Pacific Coast
5 Federation of Fishermen's Associations ("PCFFA").

6 Our qualifications are outlined above or have been previously filed in this case.

7 **Q. What is the purpose of your Joint Testimony?**

8 A. This Joint Testimony describes and supports the Stipulation, dated December 23, 2005, in
9 Docket UM 1209. Docket UM 1209 is an Application for authorization of MEHC's
10 acquisition of PacifiCorp("Application"). The Application seeks the Commission's
11 authorization of a proposed transaction ("Transaction"), whereby MEHC would acquire
12 all of the outstanding common stock of PacifiCorp from ScottishPower and PacifiCorp
13 would thereafter become an indirect wholly owned subsidiary of MEHC.

14 **Q. How is your Joint Testimony organized?**

15 A. This Joint Testimony is presented in sections as follows:

- 16 • Section I provides an introduction to the Joint Testimony, identifying the
17 witnesses, the parties to the Stipulation, and the processes leading up to
18 the Stipulation.
- 19 • Section II introduces the Stipulation and describes the general principles
20 underlying the Stipulation.
- 21 • Section III.A discusses the net-benefits standard applicable to the
22 Application and how the Stipulation Commitments provide net benefits to
23 ratepayers.
- 24 • Section III.B addresses the rate credits proposed to address potential
25 harms and risks of the Transaction and to provide net benefits.
- 26 • Sections III.C-F address specific issues of concern to Parties, including the
27 effect of the change in ownership on: (1) the environment, (2) the ability
28 of low income Oregonian's to have affordable electric utility service, (3)

1 PacifiCorp's management of its hydroelectric resources, and (4) city
2 franchise authority.

- 3 • Section III.G contains the comments of Staff, CUB and ICNU on
4 Commitment O 13, regarding treatment of the acquisition premium.
- 5 • Section III.H contains comments of ICNU regarding specific
6 commitments agreed to by MEHC and PacifiCorp.

7 **Q. Who is sponsoring this Joint Testimony?**

8 A. The sponsors of this Joint Testimony are as follows:

- 9 • Sections I, II and III.A-B of this testimony are jointly sponsored by
10 MEHC, PacifiCorp, Staff, CUB, ICNU, RNP, NRDC, CADO/OECA,
11 League of Oregon Cities, Sherman County, PCFFA (together "the Parties"
12 and individually "Party").
- 13 • Section III.C is jointly sponsored by MEHC, PacifiCorp, CUB, RNP and
14 NRDC.
- 15 • Section III.D is jointly sponsored by MEHC, PacifiCorp, CUB and
16 CADO/OECA.
- 17 • Section III.E is jointly sponsored by MEHC, PacifiCorp and PCFFA.
- 18 • Section III.F is jointly sponsored by MEHC, PacifiCorp, and the League
19 of Oregon Cities.
- 20 • Section III.G is jointly sponsored by Staff, CUB and ICNU.
- 21 • Section III.H is sponsored by ICNU.

22 **II. THE STIPULATION**

23 **Q. Please provide an overview of the Stipulation.**

24 A. The Stipulation's purpose is to resolve all issues in this case among the signing parties
25 ("Parties). The Parties agree that the Transaction, along with the commitments stated in
26 the Stipulation and in Exhibit 1 thereto ("Commitments"), provides net benefits to
27 PacifiCorp's customers and will serve PacifiCorp's customers in the public interest. The

1 Parties agree that, subject to the Commitments, the Commission should approve the
2 Application.

3 **Q. Who are the Parties to the Stipulation?**

4 A. The Stipulation is entered into by the majority of parties in Docket UM 1209 (the
5 “Stipulation”). The signing parties are:

6 MEHC
7 PacifiCorp
8 Staff
9 CUB
10 ICNU
11 RNP
12 NRDC
13 CADO
14 OECA
15 League of Oregon Cities
16 Sherman County
17 PCFFA

18 The Stipulation is being filed concurrently with this Joint Testimony.

19 **Q. Have other parties been invited to join in the Stipulation?**

20 A. Yes. The Stipulation has been circulated to the other parties to this Docket and they have
21 been invited to join. Other parties may join by signing and filing a copy of the
22 Stipulation.

23 **Q. How did the Parties arrive at the Stipulation?**

24 A. Pursuant to Administrative Law Judge Smith’s Prehearing Conference Memorandum, the
25 Parties convened settlement conferences in this Docket, beginning on October 24, 2005.
26 The conferences were open to all parties. The settlement conferences resulted in this
27 Stipulation, dated December 23, 2005.

28 **Q. If the Commission rejects any part of the Stipulation, are the Parties entitled to**
29 **reconsider their participation in the Stipulation?**

1 A. Yes. The Stipulation provides that if the Commission rejects all or any material portions
2 of the Stipulation or imposes additional material conditions in approving the Application,
3 any Party that is disadvantaged by such action shall have the right, upon written notice to
4 the Commission and all Parties within 15 business days of the Commission's order, to
5 withdraw from this Stipulation, pursue their rights under OAR 860-0140-0085, and seek
6 reconsideration or appeal of the Commission's order; provided, however, that any Party
7 seeking to withdraw from the Stipulation must, prior to such withdrawal, engage in a
8 good faith negotiation process with the other Parties.

9 **Q. Is there any other information important to understanding the Stipulation?**

10 A. Yes. Initially, certain Parties expressed concerns regarding whether the Application
11 should include Berkshire Hathaway, Warren Buffett and Walter Scott, Jr. The Parties
12 agree that the filing of an amended Application that includes Berkshire Hathaway as an
13 applicant (the "Amended Application") and contains sworn statements of Warren Buffett
14 and Walter Scott, Jr. (the "Shareholders") disclaiming any control over PacifiCorp and
15 agreeing that future transfer of their MEHC and Berkshire Hathaway shares will require
16 an agreement by the transferee to abide by the limitations , as applicable, regarding the
17 power to exercise substantial influence over PacifiCorp if, to their knowledge, the
18 transferee would own 5% or more of the voting interests of MEHC or Berkshire
19 Hathaway after such transfer, are sufficient to address this issue. The Parties agree that
20 no Party will advocate that Berkshire Hathaway, Warren Buffett and Walter Scott, Jr., as
21 a result of the amended Application and the underlying Transaction, are "public utilities"
22 as defined by ORS 757.005. This agreement effectively addresses Issue 5b in the Issue
23 List contained in Administrative Law Judge Smith's October 14, 2005 Order.

24 **Q. How many Commitments does the Stipulation include?**

1 A. Exhibit 1 to the Stipulation contains 53 Commitments applicable to all states in which
2 PacifiCorp provides utility services (4 of the 53 Commitments have intentionally been
3 left blank as a consequence of the trade-offs discussed below) and 33 Commitments
4 applicable to PacifiCorp's Oregon operations. The Stipulation also contains specific
5 commitments which MEHC and PacifiCorp agreed to make only to the Parties. By
6 signing the Stipulation, however, no individual party is deemed to have agreed to each
7 individual Commitment.

8 **Q. In addition to the Commitments referenced above, are MEHC and PacifiCorp**
9 **offering the Commission the opportunity to adopt commitments or conditions with**
10 **which MEHC and PacifiCorp are required to comply in other jurisdictions?**

11 A. Yes. MEHC and PacifiCorp agree that each state in which PacifiCorp serves will have
12 the opportunity to adopt commitments offered in other states and conditions adopted in
13 other states. This opportunity will also be available to the Commission even if such
14 commitments and conditions are agreed to after the Commission enters its order in this
15 docket. However, in developing the Commitments attached to the Stipulation, the Parties
16 have already reviewed MEHC's and PacifiCorp's commitments from California and
17 Utah.

18 Most commitments negotiated in other states, to the extent not already in the
19 Oregon Stipulation, can simply be adopted by the Commission (or not) and added to the
20 commitments in Exhibit 1. However, as with the Oregon Stipulation and Commitments,
21 it is possible that MEHC and PacifiCorp may negotiate a few commitments in other states
22 that are in substitution for commitments contained in the Oregon Stipulation. If this
23 occurs, MEHC and PacifiCorp intend that the Commission will have the ability to choose
24 to retain the Oregon commitment or substitute the trade-off commitment from the other

1 state. The following chart identifies where the Parties in Oregon made explicit
 2 commitment trade-offs during settlement negotiations.

Commitment Applicable to Other States	Trade-Off Commitment
22	O 12
33	O 1
37	O 14
38	O 9, O 11
U 23	O 12

4 III. SUPPORT FOR COMMISSION APPROVAL

6 **A. Net Benefits Generally**

7 **Q. What are the standards for approval of MEHC's Application?**

8 A. ORS 757.511 requires satisfaction of a "net public benefits" test. In adopting a net
 9 benefits standard, the Commission has stated that providing net benefits is a specific way
 10 to address the general concern that a transaction could harm customers. Thus, in addition
 11 to finding a net benefit to the utility's customers, the commission must also find that the
 12 proposed transaction will not impose a detriment on Oregon citizens as a whole. *See In*
 13 *re Merger Standards Investigation*, Order 01-778 at 10. The potential benefits and harms
 14 of the transaction are weighed against the utility as currently configured. *See In re*
 15 *Oregon Electric Company*, Order 05-114 at 18. The Commission does not consider
 16 hypothetical alternative transactions. *Id.* at 16.

17 **Q. Does the Transaction satisfy the net benefits standard?**

18 A. Yes. Given the Commitments agreed to by MEHC and PacifiCorp, the Parties to the
 19 Stipulation agree that MEHC has satisfied the "net benefits" standard of ORS 757.511.
 20 With respect to the Transaction, the Commitments made by MEHC and PacifiCorp
 21 satisfy the public interest test by providing net benefits to customers while not imposing a

1 detriment on Oregon citizens as a whole. For this reason, the Parties to the Stipulation
2 support the Commission's issuance of an order approving the Stipulation and providing
3 the approvals and declaratory rulings that MEHC has requested in the Application.

4 **Q. What harms or concerns have the Parties raised regarding this Transaction?**

5 A. Administrative Law Judge Smith's Issue List identified the following subjects of concern
6 in Docket UM 1209:

- 7 1. Infrastructure and Resource Investments
 - 8 a. Transmission and Resource Investments
 - 9 i. Effect on Oregon ratepayers
 - 10 ii. Proposed annual four percent rate increase
 - 11 iii. Relationship with public power entities
 - 12 b. Renewable Resources and Energy Efficiency
 - 13 i. Commitment to renewable resources
 - 14 ii. Effect on emissions
 - 15 iii. Community renewable energy projects
 - 16 iv. Proposed Demand Side Management study
- 17 2. Financial Stability
 - 18 a. Effect of MEHC ownership on credit ratings and cost of debt
 - 19 b. Acknowledgment and ability to pay possible liabilities pursuant to FERC
 - 20 relicensing of hydroelectric projects owned by PacifiCorp
 - 21 c. Effect of MEHC proposal on corporate overhead charges
- 22 3. Customer Service
 - 23 a. Service Quality Measures
 - 24 b. Other customer guarantees
 - 25 c. Assistance to low-income customers
 - 26 d. Public purpose funding under SB 1149
- 27 4. Holding Company
 - 28 a. Access to information in Oregon, especially in light of PUHCA repeal.
 - 29 b. Effect of debt or acquisition premium on PacifiCorp finances
 - 30 c. Ability of OPUC to regulate Oregon portion of a multi-state utility
- 31 5. Other Effects of the Proposed MEHC Transaction
 - 32 a. Relocation of headquarters or personnel
 - 33 b. Effect of Berkshire Hathaway's influence on PacifiCorp
 - 34 c. Effect of MEHC and related companies' business models on PacifiCorp
 - 35 d. Management of hydroelectric resources

36 **Q. Have the Commitments addressed the bulk of these concerns?**

1 A. Yes. Either through specific Commitments, or through the value of the Commitments as
2 a whole, the Parties agree that the Stipulation effectively addresses all major harms and
3 risks raised in this case.

4 **Q. How have the Commitments addressed issues related to transmission and resource**
5 **investments?**

6 A. Pursuant to Commitments 34 and 35, MEHC and PacifiCorp have identified potential
7 transmission projects that they believe will enhance reliability, facilitate the receipt of
8 renewable resources, or enable further system optimization. For example, MEHC and
9 PacifiCorp have committed to using their best efforts to achieve the following
10 transmission system infrastructure improvements: Path C Upgrade (~\$78 million); Mona
11 - Oquirrh (~\$196 million); and Walla Walla - Yakima or Mid-C (~\$88 million). MEHC
12 and PacifiCorp have also made commitments to improve system reliability and to take
13 steps toward more efficient use of the existing system through targeted investment in the
14 transmission and distribution system. Through Commitment 36, MEHC commits its
15 resources and leadership to assist PacifiCorp states in the development of transmission
16 projects upon which the states can agree.

17 To address Parties' concerns about the rate impacts associated with these
18 Commitments, Commitment O 33 and paragraph 22 of the Stipulation expressly provides
19 that all Parties reserve their rights to assert positions regarding the prudence, just and
20 reasonable character, rate or ratemaking impact or treatment or public interest as they
21 deem appropriate pertaining to any Commitment.

22 **Q. Have the Commitments addressed the issues regarding PacifiCorp's continued**
23 **financial stability?**

1 A. Yes. MEHC and PacifiCorp have agreed to many important Commitments in this regard,
2 including Commitments 11, 15, 18, 20, 21 and O 14 through O 18. The Commitments
3 ensure that PacifiCorp will be fully ring-fenced post-Transaction.

4 MEHC's and PacifiCorp's acknowledgement of and ability to pay possible
5 liabilities pursuant to FERC relicensing of PacifiCorp's hydroelectric projects is
6 discussed separately below in Subsection E (Hydro Issues).

7 **Q. How have the Commitments addressed the customer service issues that were**
8 **identified?**

9 A. MEHC and PacifiCorp have agreed to Commitment 1, which affirms the continuation
10 (through March 31, 2008) of existing customer service guarantees and performance
11 standards. MEHC and PacifiCorp will not propose modifications to the existing
12 guarantees and standards prior to March 31, 2008.

13 Pursuant to Commitment 45, MEHC and PacifiCorp will continue the customer
14 service guarantees and performance standards as established in each jurisdiction,
15 provided that MEHC and PacifiCorp reserve the right to request modifications of the
16 guarantees and standards after March 31, 2008, and the right to request termination (as
17 well as modification) of one or more guarantees or standards after 2011. The guarantees
18 and standards will not be eliminated or modified without Commission approval.

19 In addition, MEHC and PacifiCorp will work with ICNU and other interested
20 parties to evaluate service quality standards related to industrial customers, with a focus
21 on high tech companies. The commitment, included in the Stipulation in paragraph
22 15(d), will result in a report to this Commission no later than February 1, 2007 and, if
23 mutually agreed to be appropriate, the filing of proposed standards.

1 MEHC's and PacifiCorp's assistance to low income customers is discussed
2 separately below in Subsection D (Low-income Issues).

3 **Q. Does the Stipulation address Public Purpose Funding under SB 1149?**

4 A. Yes. Under Commitment O 19, MEHC and PacifiCorp agree to support renewal of the
5 3 percent public purpose charge beyond 2011.

6 **Q. Do the Commitments address access to relevant information of the Applicants in
7 light of PUHCA repeal?**

8 A. Yes. MEHC and PacifiCorp have made a number of commitments to facilitate access to
9 information. First, PacifiCorp will maintain its own accounting system, separate from
10 MEHC's accounting system and all PacifiCorp financial books and records will be kept
11 in Portland, Oregon. (Commitment 3). Second, MEHC, PacifiCorp and Berkshire
12 Hathaway will provide the Commission access to all books of account, as well as all
13 documents, data, and records of their affiliated interests, which pertain to transactions
14 between PacifiCorp and its affiliated interests or which are otherwise relevant to the
15 business of PacifiCorp. (Commitment 4). Third, MEHC, PacifiCorp and all affiliates
16 will make their employees, officers, directors, and agents available to testify before the
17 Commission to provide information relevant to matters within the jurisdiction of the
18 Commission. (Commitment 5). Fourth, the Commission or its agents may audit the
19 accounting records of MEHC and its subsidiaries that are the bases for charges to
20 PacifiCorp, to determine the reasonableness of allocation factors used by MEHC to
21 assign costs to PacifiCorp and amounts subject to allocation or direct charges.
22 (Commitment 6). Fifth, MEHC and PacifiCorp will comply with all applicable
23 Commission statutes and regulations regarding affiliated interest transactions, including
24 timely filing of applications and reports. (Commitment 7). Sixth, PacifiCorp will file on

1 an annual basis an affiliated interest report including an organization chart, narrative
2 description of each affiliate, revenue for each affiliate and transactions with each affiliate.
3 (Commitment 8). Seventh, MEHC, PacifiCorp and Berkshire Hathaway will provide the
4 Commission with unrestricted access to all written information provided by and to credit
5 rating agencies that pertains to PacifiCorp or MEHC. (Commitment 17). MEHC will
6 also provide the Commission with unrestricted access to all written information provided
7 by and to credit rating agencies that pertains to MEHC's subsidiaries to the extent such
8 information may potentially impact PacifiCorp. Lastly, Commitment O 5 is an
9 agreement that Berkshire Hathaway will be bound by Commitments 4, 5 and 17 and any
10 other Commitments that are applicable to the affiliates of PacifiCorp and MEHC, while
11 also making clear that it does not guarantee performance of Commitments made by
12 MEHC and PacifiCorp.

13 **Q. How do the Commitments address transaction costs and the acquisition premium?**

14 A. Pursuant to Commitment 16, MEHC and PacifiCorp will exclude all costs of the
15 Transaction from PacifiCorp's utility accounts. According to Commitment O 13, MEHC
16 and PacifiCorp will not propose to recover the acquisition premium in Oregon retail rates,
17 or include the acquisition premium in PacifiCorp's results of operations, unless this
18 Commitment is modified by the Commission under ORS 756.568.

19 **Q. Do Parties other than MEHC and PacifiCorp wish to clarify their position on**
20 **Commitment O 13?**

21 A. Yes. Staff, CUB and ICNU provide separate testimony on this Commitment in Section
22 III.G of this Joint Testimony.

23 **Q. How do the Commitments facilitate the ability of the Commission to regulate the**
24 **Oregon portion of a multi-state utility?**

1 A. Under Commitment 9, PacifiCorp and MEHC will not cross-subsidize between the
2 regulated and non-regulated businesses or between any regulated businesses, and shall
3 comply with the Commission's applicable orders and rules with respect to such matters.
4 In addition, under Commitment O 3, MEHC and PacifiCorp commit that they will
5 interpret Oregon Revised Statutes Sections 757.015 and 757.495 to require Commission
6 approval of any contract between PacifiCorp and (i) any affiliate of MEHC or (ii) any
7 affiliate of Berkshire Hathaway. Any proposed cost allocation methodology for the
8 allocation of corporate and affiliate investments, expenses, and overheads, required by
9 law or rule to be submitted to the Commission for approval, will comply with the
10 principles established in Commitment 14.

11 PacifiCorp or MEHC will notify the Commission subsequent to MEHC's board
12 approval and as soon as practicable following any public announcement of: (1) any
13 acquisition of a regulated or unregulated business representing 5 percent or more of the
14 capitalization of MEHC; or (2) the change in effective control or acquisition of any
15 material part or all of PacifiCorp by any other firm, whether by merger, combination,
16 transfer of stock or assets. (Commitment 12). Further, MEHC and PacifiCorp commit
17 that they will interpret O R S 757.480 to require Commission approval of any transaction
18 which results in a merger of PacifiCorp with another public utility, without regard to
19 whether that public utility provides service in Oregon. (Commitment O 4).

20 **Q. Have the Commitments addressed concerns related to relocation of PacifiCorp's**
21 **headquarters or personnel?**

22 A. Yes. In Commitment O 2, MEHC commits to maintain the corporate headquarters of
23 PacifiCorp in Oregon and to maintain a balance of corporate and senior management
24 positions between Oregon and Utah. Maintaining a balance means that MEHC commits

1 that the number of senior corporate executives located in Oregon and Utah will be
2 roughly proportional to the Pacific Power retail load as compared to the Utah Power retail
3 load, which at this time is approximately equal and that the number of senior corporate
4 executives in Oregon will be commensurate with MEHC's commitment to maintain
5 PacifiCorp's headquarters in Oregon. While MEHC expects that two or three additional
6 senior executive positions may be located in Utah, along with the support personnel
7 deemed necessary by those senior executives, this does not necessarily mean a
8 concomitant reduction in positions in Oregon.

9 In Commitment O 3, PacifiCorp and MEHC will ensure that senior management
10 personnel located in Oregon continue to have authority to make decisions on behalf of
11 PacifiCorp pertaining to (1) local Oregon retail customer service issues related to tariff
12 interpretation, line extensions, service additions, DSM program implementation and (2)
13 customer service matters related to adequate investment in and maintenance of the
14 Oregon sub-transmission and distribution network and outage response.

15 Moreover, in Commitment 47, MEHC and PacifiCorp commit to maintaining
16 adequate staffing and presence in each state, consistent with the provision of safe and
17 reliable service and cost-effective operations. In furtherance of this commitment, MEHC
18 and PacifiCorp have offered Commitments 28 and 29 in which MEHC has committed to
19 honoring PacifiCorp's existing labor contracts and MEHC and PacifiCorp have
20 committed to making no unilateral changes, after the closing of the transaction, to
21 employee benefit plans prior to May 23, 2007 that would result in the reduction of
22 employee benefits.

23 **B. Rate Credits**

24 **Q. How does the Stipulation address the issue of rate credits?**

1 A. In Commitment O 7, MEHC and PacifiCorp have committed to \$142.55 million (total
2 company amount) of offsetable rate credits as reflected in Appendix 2 of the Stipulation
3 and as described in Commitments O 8 through O 12. These rate credits will be reflected
4 in rates on the effective date of new rates as determined by the Commission in a general
5 rate case. The rate credits will terminate on December 31, 2010, to the extent not
6 previously offset, unless otherwise noted.

7 **Q. Please describe the offsetable rate credit that MEHC and PacifiCorp have agreed to
8 provide in Commitment O 8?**

9 A. In Commitment O 8, MEHC and PacifiCorp commit to reducing the annual non-fuel
10 costs to PacifiCorp customers of the West Valley lease by \$0.417 million per month
11 (total company) or an expected \$3.7 million in 2006 (assuming a March 31, 2006
12 Transaction closing), \$5 million in 2007 and \$2.1 million in 2008 (the lease terminates
13 May 31, 2008), which shall be the amounts of the total company rate credit. Beginning
14 with the first month after the close of the Transaction to purchase PacifiCorp, Oregon's
15 share of the monthly rate credit will be deferred for the benefit of customers and accrue
16 interest at PacifiCorp's authorized rate of return. This commitment is offsetable, on a
17 prospective basis, to the extent PacifiCorp demonstrates to the Commission's satisfaction,
18 in the context of a general rate case, that such West Valley non-fuel cost savings: (i) are
19 reflected in PacifiCorp's rates; and, (ii) there are no offsetting actions or agreements by
20 MEHC or PacifiCorp for which value is obtained by PPM or an affiliated company,
21 which, directly or indirectly, increases the costs PacifiCorp would otherwise incur.

22 **Q. Please describe the offsetable rate credit that MEHC and PacifiCorp have agreed to
23 provide in Commitment O 9?**

1 A. In Commitment O 9, MEHC and PacifiCorp have committed to holding customers
2 harmless for increases in costs retained by PacifiCorp that were previously assigned to
3 affiliates relating to management fees. The total company amount assigned to
4 PacifiCorp's affiliates is \$1.5 million per year, which is the amount of the total company
5 rate credit. This commitment expires on December 31, 2010. This Commitment is in
6 lieu of Commitment 38, and MEHC and PacifiCorp agree to either Commitment O 9 or
7 Commitment 38, but not both. This commitment is offsetable to the extent PacifiCorp
8 demonstrates to the Commission's satisfaction, in the context of a general rate, the
9 following: (i) corporate allocations from MEHC to PacifiCorp included in PacifiCorp's
10 rates are less than \$7.3 million; (ii) costs associated with functions previously carried out
11 by parents to PacifiCorp and previously included in rates have not been shifted to
12 PacifiCorp or otherwise included in PacifiCorp's rates; and (iii) costs have not been
13 shifted to operational and maintenance accounts (FERC accounts 500-598), customer
14 accounts (FERC accounts 901-905), customer service and informational accounts (FERC
15 accounts 907-910), sales accounts (FERC accounts 911-916), capital accounts, deferred
16 debit accounts, deferred credit accounts, or other regulatory accounts.

17 **Q. Please describe the offsetable rate credit that MEHC and PacifiCorp have agreed to**
18 **provide in Commitment O 10?**

19 A. In Commitment O 10, MEHC has committed to the use of an existing, or formation of a
20 new, captive insurance company to provide insurance coverage for PacifiCorp's
21 operations. The costs of forming such captive will not be reflected in PacifiCorp's
22 regulated accounts, nor allocated directly or indirectly to PacifiCorp. Such captive shall
23 be comparable in costs and services to that previously provided through ScottishPower's
24 captive insurance company Dornoch. MEHC has further committed that insurance costs

1 incurred by PacifiCorp from the captive insurance company for equivalent coverage for
2 calendar years 2006 through 2010, inclusive, will be no more than \$7.4 million (total
3 company). Commission Staff has valued the potential increase in PacifiCorp's total
4 company revenue requirement from the loss of ScottishPower's captive insurance
5 affiliate as \$4.3 million annually, which will be the amount of the total company rate
6 credit. This commitment expires on December 31, 2010. This commitment is offsettable
7 if PacifiCorp demonstrates to the Commission's satisfaction, in the context of a general
8 rate case, the costs included in PacifiCorp's rates for such insurance coverage is not more
9 than \$7.4 million (total company).

10 **Q. Please describe the offsettable rate credit that MEHC and PacifiCorp have agreed to**
11 **provide in Commitment O 11?**

12 A. Through Commitment O 11, MEHC and PacifiCorp will hold customers harmless for
13 increases in costs resulting from PacifiCorp corporate costs previously billed to PPM and
14 other former affiliates of PacifiCorp. Commission Staff has valued the potential increase
15 in total company revenue requirement if these costs are not eliminated as \$7.9 million
16 annually (total company) through December 31, 2010 and \$6.4 million annually (total
17 company) from January 1, 2011 through December 31, 2015, which will be the amounts
18 of the total company rate credit. This commitment will expire on the earlier of
19 December 31, 2015 or when PacifiCorp demonstrates to the Commission's satisfaction,
20 in the context of a general rate case, that corporate costs previously billed to PPM and
21 other former affiliates have not been included in PacifiCorp's rates. This Commitment is
22 in lieu of Commitment 38, and MEHC and PacifiCorp agree to either Commitment O 11
23 or Commitment 38, but not both. This commitment is offsettable to the extent PacifiCorp
24 demonstrates to the Commission's satisfaction, in the context of a general rate case, that

1 corporate costs previously billed to PPM and other former affiliates have not been
2 included in PacifiCorp's rates.

3 **Q. Please describe the offsetable rate credit that MEHC and PacifiCorp have agreed to**
4 **provide in Commitment O 12?**

5 A. Through Commitment O 12, MEHC and PacifiCorp have pledged that PacifiCorp's total
6 company A&G costs will be reduced by \$6 million annually based on the A&G
7 categories, assumptions, and values contained in Appendix 3 titled, "UM 1209 A & G
8 Stretch." The amount of the total company rate credit is \$6 million per year. This
9 commitment will expire on December 31, 2010. Beginning with the first month after the
10 close of the transaction, Oregon's share of the \$0.5 million monthly rate credit will be
11 deferred for the benefit of customers and accrue interest at PacifiCorp's authorized rate of
12 return. This Commitment is in lieu of Commitments 22 and U 23 from the Utah
13 settlement, and MEHC and PacifiCorp agree to either Commitment O 12 or
14 Commitments 22 and U 23, but not both. The credit will be offsetable by the amount that
15 PacifiCorp demonstrates to the Commission's satisfaction, in a general rate case, that
16 total company A&G expenses included in PacifiCorp's rates are lower than the
17 benchmark (which is defined in the Commitment) and have not been shifted to other
18 regulatory accounts.

19 **C. Environmental Issues**

20 **Q. What renewable resource and energy efficiency issues have been raised regarding**
21 **the proposed transaction?**

22 A. The Issues List that ALJ Smith established on November 1, 2005 identified four issues of
23 concern related to renewable resources and energy efficiency. These concerns included

1 (i) commitment to renewable resources, (ii) effects on emissions, (iii) community
2 renewable energy projects, and (iv) a proposed demand side management study.

3 **Q. How does the Stipulation address PacifiCorp's and MEHC's commitment to**
4 **renewable resources?**

5 A. There are numerous commitments that demonstrate a strong focus on renewable
6 resources. First, through Commitment 40 MEHC has reaffirmed PacifiCorp's
7 commitment to acquire 1400 MW of new cost-effective renewable resources,
8 representing approximately 7% of PacifiCorp's load and has committed to bring at least
9 100MW of cost-effective wind resources in service within one year of the transaction
10 close. Second through Commitment O 25, to the extent available, MEHC and PacifiCorp
11 commit to have 400 MW of cost-effective new renewable resources in PacifiCorp's
12 generation portfolio by December 31, 2007. Third, in Commitment O 26, PacifiCorp
13 commits to file a ten-year plan for achieving the 1400 MW renewables target, including
14 specific milestones over the ten years when resources will be added and a plan for
15 installing transmission that will facilitate the delivery of renewable energy. Fourth,
16 MEHC or PacifiCorp commit to commence as soon as practical after close of the
17 transaction a system impact study to examine the feasibility of constructing transmission
18 facilities from the Jim Bridger generating facilities to Miners, Wyoming, an area where
19 significant wind potential exists. Fifth, through Commitment O 23, PacifiCorp will
20 continue a Blue Sky tariff offering in all states. PacifiCorp will continue to support this
21 offering through innovative marketing, by modifying the tariff to reflect the developing
22 green power market and by monitoring national certification standards. Finally, through
23 Commitment 39, for the next ten years, MEHC and PacifiCorp have committed that they
24 will submit as part of any commission approved RFPs for resources with a dependable

1 life greater than 10 years and greater than 100 MW,—including renewable energy
2 RFPs—a 100 MW or more utility “own/operate” alternative for the particular resource.

3 **Q. How does the Stipulation address community renewable energy projects?**

4 A. In Commitment O 27, MEHC and PacifiCorp offer their commitment to support cost
5 effective and safe community renewable energy projects in Oregon using PURPA
6 contracts implemented under avoided cost tariffs approved by the Commission. If
7 PURPA is no longer in effect in Oregon before an alternate market for community
8 renewable energy is developed, PacifiCorp will work with Oregon stakeholders and the
9 Commission to develop replacement procedures for new contracts. In addition, through
10 Commitment O 28, to the extent consistent with the interests of PacifiCorp’s retail
11 customers, MEHC and PacifiCorp will support through action and policy the emerging
12 community renewable energy market in Oregon. PacifiCorp will also consult with
13 community renewable energy representatives and other interested Parties if PacifiCorp is
14 contemplating changes to system operation that would adversely affect community
15 renewable energy projects.

16 **Q. What commitments does the Stipulation contain relative to environmental
17 planning?**

18 A. Through Commitments 24 and 30, PacifiCorp has pledged its continued commitment to
19 gathering outside input on environmental matters, such as through the Environmental
20 Forum. PacifiCorp has also pledged to continue producing Integrated Resource Plans
21 according to the then current schedule and the then current Commission rules and orders.

22 **Q. How does the Stipulation address emissions?**

23 A. First, pursuant to Commitment 41, PacifiCorp will consider utilization of advanced coal-
24 fuel technology when adding coal-fueled generation. To that end, Commitment O 31 will

1 result in the formation of an IGCC Working Group and Commitment O 32 identifies
2 specific IGCC-related studies that PacifiCorp and MEHC commit to undertake related to
3 the economics and viability of an IGCC option. Second, pursuant to Commitment 42,
4 MEHC and PacifiCorp will participate in the Environmental Protection Agency's SF₆
5 Emission Reduction Partnership for Electric Power Systems. Through its participation in
6 the SF₆ partnership, PacifiCorp will commit to an appropriate SF₆ emissions reduction
7 goal and annually report its estimated SF₆ emissions. Third, within six months after close
8 of the transaction, PacifiCorp will establish a global warming working group to identify
9 cost-effective measures to reduce PacifiCorp's greenhouse emissions. PacifiCorp will
10 develop and file with the Commission its strategy, which MEHC supports, for reducing
11 its greenhouse gas emissions. Finally, through Commitment 43, working with the
12 affected generation plant joint owners and with regulators to obtain required approvals,
13 MEHC and PacifiCorp will install, to the extent cost effective, the equipment likely to be
14 necessary under future emissions control scenarios at a cost of approximately \$812
15 million.

16 **Q. Does the Stipulation address the proposed demand side management study?**

17 A. Yes. In Commitment 44, MEHC and PacifiCorp commit to conducting a company-
18 defined third-party market potential study of additional DSM and energy efficiency
19 opportunities within PacifiCorp's service areas. The objective of the study will be to
20 identify opportunities not yet identified by the company and, if and where possible, to
21 recommend programs or actions to pursue those opportunities found to be cost-effective.
22 The study will be completed within fifteen months after the closing on the transaction,
23 and MEHC shareholders will absorb the first \$1 million of the costs of the study.

24 PacifiCorp further commits to meeting its portion of the NWPPC's energy efficiency

1 targets for Oregon, Washington and Idaho, as long as the targets can be achieved in a
2 manner deemed cost-effective by the affected states. In addition, MEHC and PacifiCorp
3 will collaborate in identifying any incremental programs that might be cost-effective for
4 PacifiCorp customers. Finally, Commitment O 23 ensures that Oregon low-income
5 advocates will be invited to participate in the study.

6 **D. Low-income Issues**

7 **Q. Please describe how the Stipulation addresses issues raised by the parties regarding**
8 **assistance to low income customers.**

9 A. In Commitment O 20, MEHC and PacifiCorp acknowledge that the \$10 million low-
10 income bill payment assistance under ORS 757.612 does not expire in 2011. MEHC and
11 PacifiCorp have agreed to oppose any reduction in the current amount of the fund. In
12 addition, through Commitment O 22, MEHC and PacifiCorp will contribute to Oregon
13 low-income bill payment assistance through a variety of sources in the amount of
14 \$400,000 annually, for a five-year period beginning July 1, 2006.

15 Pursuant to Commitment O 21, MEHC will provide shareholder funding to hire a
16 consultant to study and design an arrearage management project for low-income
17 customers that could be made applicable to Oregon and other states that PacifiCorp
18 serves. The costs of this study will be at least \$66,000 on a total company basis and will
19 be paid for by shareholders.

20 **E. Hydro Issues**

21 **Q. How does the Stipulation address issues raised by the parties regarding PacifiCorp's**
22 **management of hydroelectric resources.**

23 A. The Applicants have addressed these concerns through two commitments. First, through
24 Commitment O 29, MEHC and PacifiCorp have agreed that once a FERC license is

1 issued and (a) PacifiCorp either (i) affirmatively accepts the license, or (ii) is deemed to
2 have accepted the license pursuant to the terms of the license and FERC rules and
3 procedures, and (b) the license's conditions are not subject to further appeals, PacifiCorp
4 will have the ability to fund implementation of all final license conditions. This
5 provision is generally applicable, but also specifically applies to the following PacifiCorp
6 hydropower projects: Klamath, Lewis River, and Prospect. Second, through
7 Commitment O 30, MEHC and PacifiCorp renew PacifiCorp's commitment to
8 implement the Condit, Lewis and Powerdale settlement agreements and commit to
9 continue to approach the agreements in a spirit of cooperation with other stakeholders.

10 **F. City Franchise Authority**

11 **Q. Do MEHC and PacifiCorp wish to clarify their position on Commitment O 24?**

12 A. Yes. In Commitment O 24, MEHC and PacifiCorp acknowledge current city franchise
13 authority including but not limited to a city's authority to control the use of its rights of
14 way and collect charges for the use of the city's rights of way, as set forth and authorized
15 by applicable Oregon law. Applicable law as used in this Commitment is to be broadly
16 interpreted to include constitutional law, statutory law, charters, etc. All parties reserve
17 the right to make legal arguments about why such a law may be inapplicable..

18 **G. Treatment of the Acquisition Premium**

19 **Q. What is the purpose of this testimony?**

20 A. This testimony outlines the views of Staff, CUB and ICNU on the treatment of goodwill
21 associated with this transaction and presents the assumptions we made when determining
22 that the acquisition of PacifiCorp by MEHC met the "net benefits" standard found in
23 ORS 757.511. This testimony creates a record of our position on the goodwill associated
24 with this transaction.

1 **Q. Are you requesting any action at this time from the Commission with respect to**
2 **goodwill?**

3 A. No.

4 **Q. Why are you offering separate testimony on this issue?**

5 A. This testimony presents our independent point of view on goodwill and so it is
6 appropriate to provide it in a separate section.

7 **Q. Please describe your view of whether goodwill associated with this transaction**
8 **should ever be recognized for rates purposes.**

9 A. We oppose inclusion, now and in the future, of goodwill from this transaction in Oregon
10 retail rates.

11 **Q. Please explain your understanding of Commitment O 13.**

12 A. To briefly summarize, the Commitment requires MEHC and PacifiCorp to first request,
13 pursuant to ORS 756.568, that the Commission UM 1209 Order be amended or modified
14 to allow goodwill to be included in rates. The Commitment also specifies the limited
15 circumstances under which MEHC and PacifiCorp may make their filing pursuant to
16 ORS 756.568. Our understanding of this commitment is that goodwill will not be
17 recognized for ratemaking purposes unless MEHC or PacifiCorp convinces the
18 Commission otherwise. Further, we believe that any recognition of goodwill for
19 ratemaking purposes would be prospective in nature and would not be an offset to the
20 benefits that may be realized due to this transaction. For example, if the transaction
21 results in benefits in the future, as is expected, we do not believe that PacifiCorp and
22 MEHC should be able to assert that those realized benefits mean that the inclusion of
23 goodwill in rates continues to result in “net benefits.”

1 **Q. Does the wording of Commitment O 13 imply that you are unsure if goodwill**
2 **associated with this Transaction should be recognized for ratemaking in the future?**

3 A. No, our position is that goodwill should never be included in Oregon retail rates. The
4 Commitment only reserves PacifiCorp's and MEHC's ability to argue in certain
5 circumstances, within the procedure established by the Commitment, that the
6 Commission should consider allowing goodwill in rates.

7 **Q. What assumptions did you make regarding goodwill recovery when determining**
8 **whether the Stipulation met the requirements of ORS 757.511?**

9 A. We assumed the Commission would never recognize goodwill for ratemaking purposes.

10 **Q. Given your testimony above, do you support the Stipulation that includes**
11 **Commitment O 13?**

12 A. Yes.

13 **Q. Please explain.**

14 A. There are three primary reasons that we support the Stipulation which includes
15 Commitment O 13. First, because the Commission cannot bind future Commissions, the
16 Commission may revisit its policies and amend prior orders. So, even if this
17 Commitment did not rely upon ORS 756.568, amending the order would likely not have
18 been prohibited. Second, Commitment O 13 only operates to preserve MEHC's and
19 PacifiCorp's ability to argue under limited circumstances that the Commission should
20 alter its longstanding policy on excluding goodwill from rates. However, the
21 Commitment recognizes and preserves the Commission's authority to decide whether it
22 would ever be appropriate to allow goodwill into rates. Finally, we are confident that the
23 Commission would not change its longstanding practice of not recognizing goodwill for
24 ratemaking purposes.

1 **H. ICNU Comments Regarding Specific Commitments**

2 **Q. Are there specific Commitments about which ICNU would like to comment?**

3 A. Yes. Commitment 34 identifies specific transmission projects that MEHC has committed
4 to pursue. Although MEHC has alleged certain benefits of these projects, the
5 Commission has not reviewed these investments or determined that they are necessary or
6 beneficial to customers. It is important that the record is clear that PacifiCorp
7 shareholders should bear the costs of these projects to the extent that those costs are later
8 deemed to be inappropriate for inclusion in rates.

9 Commitment 43 states that MEHC and PacifiCorp commit to install certain
10 emissions control equipment at a cost of approximately \$812 million, and MEHC and
11 PacifiCorp have represented that these investments should achieve certain levels of
12 emission reductions. Again, there is no basis in the record in this proceeding to conclude
13 that \$812 million is the appropriate or necessary level of investment or that this project
14 will result in the reductions predicted by MEHC and PacifiCorp. ICNU's decision to
15 sign the Stipulation should not be construed as agreement with the benefits of the
16 transmission projects and emissions reductions alleged by MEHC and PacifiCorp.

17 **IV. CONCLUSION**

18 **Q. Does this conclude your Joint Testimony in support of the Stipulation?**

19 A. Yes.