

Decision 12-03-022 March 8, 2012

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of PACIFICORP (U901E) for Authority to Update its Rates Pursuant to its Energy Cost Adjustment Clause Effective January 1, 2012.

Application 11-08-001  
(Filed August 11, 2011)

**DECISION AUTHORIZING PACIFICORP TO MODIFY ENERGY COST ADJUSTMENT CLAUSE RATES**

**Summary**

PacifiCorp seeks authorization to modify the Energy Cost Adjustment Clause (ECAC) rates so as to allow for recovery of its 2010 adjusted actual net power costs, adjusted actual and forecast net power costs for 2011, and its forecasted net power costs for 2012. This Decision approves and adopts an all-party Written Stipulation (Stipulation) that addresses the limited set of issues between the Applicant and the only other party to the case, the Division of Ratepayer Advocates, but which does not address all issues raised in the Application. This Decision also resolves the other, undisputed issues in this application.

This modification will result in a rate increase of approximately \$1.64 million, or 1.6% overall, to PacifiCorp's California retail customers. This increase is authorized, and the new rates shall become effective on the filing of the appropriate advice letter, subject to the Energy Division determining that the rates are in compliance with this Order.

PacifiCorp also seeks authorization to recover the program costs and revenues associated with implementation of Assembly Bill (AB) 32, the greenhouse gas emissions reduction program, in the Company's annual ECAC. Pursuant to the Stipulation we adopt today, PacifiCorp is authorized to establish a memorandum account for recording California Air Resources Board implementation fees and mandatory reporting and verification costs required to implement Assembly Bill (AB) 32 that are included in PacifiCorp's 2012 ECAC Application, and that have been or will be incurred in calendar year 2011 and beyond. The recovery of costs included in the memorandum account will be subject to the Commission's ultimate disposition on the appropriate mechanisms for the allocation and recovery of AB 32 costs.

Pursuant to the Stipulation we adopt today, PacifiCorp will withdraw its inclusion of the revenues from the sale of free allowances and the costs for purchasing allowances from this Application. PacifiCorp may seek to recover these AB 32 costs in rates following the earlier of a Commission determination generically resolving the appropriate timing and cost recovery process for the investor-owned electric utilities, or a Commission determination specific to PacifiCorp finding the Energy Cost Adjustment Clause (or some other mechanism) is the appropriate cost recovery vehicle.

### **Background**

PacifiCorp is a multi-jurisdictional utility providing electric retail service to customers in California, Idaho, Oregon, Utah, Washington, and Wyoming. PacifiCorp serves approximately 46,500 customers in Del Norte, Modoc, Shasta, and Siskiyou counties in Northern California. On November 29, 2005, PacifiCorp filed a general rate case application (Application (A.) 05-11-022) seeking an overall revenue requirement increase and requesting authority to implement an

Energy Cost Adjustment Clause (ECAC) balancing account to allow for timely and efficient recovery of its net power costs<sup>1</sup>. PacifiCorp's request was approved in Decision (D.) 06-12-011. PacifiCorp filed revised tariff rate sheets associated with the ECAC on December 21, 2006 and these tariffed rates became effective January 1, 2007. On August 1, 2007, PacifiCorp sought permission to revise its ECAC rates to recover an increase in net power costs.<sup>2</sup> In D.07-12-015 the Commission adopted PacifiCorp's proposed ECAC offset rate but postponed consideration of a proposed Balancing Rate to a future proceeding. In the ensuing three years, PacifiCorp submitted annual applications to the Commission<sup>3</sup> and was granted authority<sup>4</sup> to establish new Offset and Balancing Rates to be effective January 1 of the following year.

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<sup>1</sup> The ECAC mechanism is a balancing account designed to allow utilities to recover their net volatile power costs (NVPC) in a timely and efficient manner by annually trueing up forecasted and actual NVPC and annually resetting rates. The ECAC mechanism allows the utilities to recover their NVPC annually rather than every three to four years in a general rate case (GRC) on a purely forecast basis. The NVPC is forecasted by reviewing (1) forward price curves, (2) forecast loads, (3) normalized hydro electric generation, (4) forecast fuel prices, (5) contract updates, (6) heat rates, planned outages and de-rates, (7) wheeling expenses, and (8) new resource acquisitions. The ECAC rates are separated into two parts: the Offset Rate and the Balancing Rate. The Offset Rate is the rate that is adopted to allow monthly recovery of a utility's annually forecasted NVPC. The Balancing Rate is the rate that is adopted to allow the true up of the actual NVPC and the forecasted NVPC for the previous year. Changes in the Offset Rate and the Balancing Rate must exceed 5% before an update may be requested.

<sup>2</sup> A.07-08-008.

<sup>3</sup> A.08-08-003, A.09-07-032 and A.10-08-003.

<sup>4</sup> D.08-11-058, D.09-12-027, and D.10-11-021.

On August 11, 2011, PacifiCorp filed A.11-08-001 to modify its ECAC rates, proposing an increase in rates of approximately \$2.0 million, or 1.96% overall, to California retail customers. PacifiCorp seeks a Balancing Rate decrease from its current rate of \$1.34 per Megawatt-hours (MWh) to \$0.47 per MWh effective January 1, 2012, and an increase in its Offset Rate from the current rate of \$28.35 per MWh to \$31.20 per MWh. Both rate changes exceed the 5% threshold necessary to request an update to its ECAC rates.<sup>5</sup>

### **Summary of Request**

In its application, PacifiCorp seeks authorization to update its ECAC rates to allow for recovery of:

- Its adjusted actual net power costs and fuel stock carrying charge for 2010;
- Its adjusted actual/forecast net power costs and fuel stock carrying charge for 2011; and,
- Its forecast net power costs and fuel stock carrying charge for 2012.

No party has protested PacifiCorp's request to update its rates relative to these three elements of its ECAC calculations.

In this application, PacifiCorp also seeks to recover program costs and revenues associated with the implementation of Assembly Bill (AB) 32 the greenhouse gas (GHG) emissions reduction program. It argues that ECAC is the proper proceeding to book these costs because the AB 32 program costs and revenues are directly related to PacifiCorp's generation used to serve its load obligation,<sup>6</sup> and because the ECAC mechanism allows it to recover these costs in

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<sup>5</sup> D.07-12-015, D.08-11-058, D.09-12-027, and D.10-11-021.

<sup>6</sup> Application at 5.

a timely and efficient manner.<sup>7</sup> PacifiCorp's application included 2011 actual and forecasted AB 32 program costs in its Balancing Rate calculations and 2012 forecasted AB 32 program costs in its Offset Rate calculations.

The AB 32 related program costs and revenues that PacifiCorp seeks to recover consist of the following elements:

- California Air Resources Board implementation fees of \$188,476 that PacifiCorp paid in 2011
- Mandatory reporting verification costs, including \$99,580 that PacifiCorp expected to pay in 2011;
- Revenue from the sale of free allowances that has not yet been realized; and
- Costs for purchasing allowances that have not yet been realized.

A prehearing conference (PHC) was held on October 24, 2011. At that conference, PacifiCorp withdrew the elements of this application relative to using the ECAC to book:

- Revenue from the sale of free allowances; and
- Costs for purchasing allowances.

On June 24, 2010, in Resolution G-3447, the Commission denied Advice Letter filings seeking recovery of future AB 32 implementation fees by Pacific Gas and Electric, Southern California Edison, San Diego Gas & Electric and Southern California Gas. The Commission determined that our rules require the filing of an application when a requested action will result in a rate increase and the utility has not been specifically authorized to seek the increase by an advice letter.

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<sup>7</sup> Ibid at 4.

On August 2, 2010 the four affected utilities filed Joint A.10-08-002, seeking authority to establish memorandum accounts to recover AB 32 related implementation fees. In interim decision D.10-12-026 in application A.10-08-002, we stated:

This decision authorizes the establishment of the AB 32 Fee memorandum accounts proposed by the Joint IOUs. We defer to a subsequent phase of this proceeding determination of whether costs incurred and recorded in the memorandum accounts prior to each of the Joint IOUs' next general rate case will be recoverable in rates, and the appropriate manner in which any approved costs will be recovered. This decision does not prejudice any decision in the subsequent phase regarding cost recovery of the AB 32 Fee.

On March 24, 2011 the Commission opened Rulemaking (R.) 11-03-012, a Rulemaking to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas Emissions.<sup>8</sup> On September 1, 2011 the assigned Commissioner and the assigned Administrative Law Judge (ALJ) in R.11-03-012 issued a Joint Scoping Memo which states:

It is possible that ARB may hold GHG allowance auctions in 2012 for 2013 and other future vintage allowances; thus utilities may incur costs in 2012 related to procurement of allowances for future compliance. If this occurs, the utilities may wish to request that the Commission approve the creation of a memorandum account to track costs incurred in 2012, among other options, in the LTPP proceeding, or other appropriate proceeding.

PacifiCorp asserts that its proposed use of the existing ECAC balancing account as an appropriate vehicle to implement tracking and recovery of the AB 32

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<sup>8</sup> PacifiCorp is a party in R.11-03-012.

program costs and revenues is consistent with the “among other options” clause of this ruling.<sup>9</sup>

### **DRA Review**

The Division of Ratepayer Advocates (DRA) appeared at the October 24th PHC and requested and received Party status.

DRA stated that it did not oppose the proposed rate increase, except the AB 32 costs related component. DRA stated that it opposed PacifiCorp’s inclusion of AB 32 program implementation costs and revenues in its ECAC application.

On November 14, 2011, PacifiCorp and DRA (the Parties) representatives discussed a potential resolution of this matter given that DRA had opposed only the inclusion of AB 32 costs in the requested rate increase. On November 21, 2011, PacifiCorp provided DRA with a proposed settlement agreement reflecting the parties’ prior discussions. A settlement conference was noticed to the Service List on November 30, 2011, and held on December 7, 2011. The Parties determined that a Written Stipulation as to the facts agreed upon would fully address the contested issues in the case.

### **Joint Motion for Commission Approval and Adoption of Written Stipulation**

On January 9, 2012 the Parties filed a Joint Motion for Commission Approval and Adoption of Written Stipulation. The Stipulation requests that the Commission act on this Application based on the facts contained in the Stipulation. The Stipulation provides that it settles the limited set of issues contested in this case but does not cover all issues raised in the Application.

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<sup>9</sup> PacifiCorp PHC Statement at 6.

The Parties declare that the requirements of Rule 12.1(b) were met, and that the Stipulation expresses their mutual understandings and resolution of the ratemaking issues in this proceeding.

The Stipulation provides that the Parties agree to the establishment of a memorandum account for recording California Air Resource Board (CARB) implementation fees and mandatory reporting and verification costs required to implement AB 32 that are included in PacifiCorp's 2012 ECAC Application and have been or will be incurred in calendar year 2011 and beyond. The Parties also agree that the recovery of costs included in the memorandum account will be subject to the Commission's ultimate disposition on the appropriate mechanisms for the allocation and recovery of AB 32 costs and revenues. For 2011, the mandatory reporting and verification costs for PacifiCorp were \$99,580 and are estimated to be \$50,000 in 2012. DRA reserves the right to review and audit the actual mandatory reporting and verification costs. The parties also agree that the Stipulation, and any resultant decision, does not address whether cost recovery of the AB 32 costs prior to PacifiCorp's next general rate case is warranted and does not prejudice the outcome of any subsequent decision on that matter in this or any other proceeding.

As part of the Stipulation, PacifiCorp agrees to remove its request for inclusion of the revenues from the sale of free allowances and the costs for purchasing allowances from this ECAC Application. The parties agree that the Company may seek to recover these AB 32 costs in rates following the earlier of a Commission determination generically resolving the appropriate timing and cost recovery process for the investor-owned electric utilities, or a Commission determination specific to PacifiCorp finding the ECAC (or some other mechanism) is the appropriate cost recovery vehicle.

The Stipulation provides for an overall average rate increase of 1.6%. Residential customers will see an average rate increase of 1.5%, slightly lower than the overall average increase. The increase varies among classes, and for the commercial and industrial customers, will be between 1.3% and 2.3%. DRA agrees that the net power costs and fuel stock carrying charges included in the Application are just and reasonable.

### **Consideration of Stipulation/Settlement**

The Commission has a long, well-established policy of supporting the resolution of disputed matters through settlement.<sup>10</sup> In doing so, the Commission has acknowledged that settlements advance several important goals, such as reducing the time and expense of litigation, conserving scarce Commission resources, and allowing the parties to reduce risks associated with litigation.<sup>11</sup>

### **Standard of Review**

We review this uncontested stipulation/settlement pursuant to Rule 12.1(d) which provides that, prior to approval, the Commission must find a settlement “reasonable in light of the whole record, consistent with the law, and in the public interest.” Initially, we note that the circumstances of the Joint Stipulation/Settlement (The Settlement), particularly its endorsement by both parties, generally support its adoption. We find The Settlement meets the criteria for a settlement pursuant to Rule 12.1(d), and discuss each of these three criteria below.

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<sup>10</sup> See, e.g., D.05-03-022 at 8-9.

<sup>11</sup> D.05-11-005 at 16.

### **Reasonable in Light of the Whole Record**

In assessing settlements, the Commission considers all of the settlement provisions. In light of strong public policy favoring settlements, the Commission will not base its conclusions on whether any single provision is the optimal result, but rather, “whether the settlement as a whole produces a just and reasonable outcome.”<sup>12</sup>

The Settlement was reached after careful analysis of the positions of the affected parties. An examination of the complete record demonstrates that The Settlement is based upon a stipulation of facts, and that each of the Settling Parties made concessions to resolve the issues in this proceeding in a manner that reflects a reasonable compromise among their respective litigation positions.

In particular, DRA opposed the inclusion of two of the three elements of PacifiCorp’s ECAC Application. DRA opposed the inclusion of the CARB implementation fees and mandatory reporting and verification costs required to implement AB 32 that are included in PacifiCorp’s 2012 ECAC Application. DRA also opposed the inclusion of the revenues from the sale of free allowances and the costs for purchasing allowances. DRA did not oppose the rate increase sought, apart from these AB 32 related costs.

The Settlement provides that the CARB implementation fees and mandatory reporting and verification costs incurred by PacifiCorp in 2011 and beyond will be recorded in a Memorandum Account and that the decision on the recovery of those costs will be subject to the Commission’s ultimate disposition on the appropriate mechanisms for the allocation and recovery of AB 32 costs and revenues.

The Settlement provides that the Company may seek to recover the AB 32 related revenues from the sale of free allowances and the costs for purchasing allowances in rates following the earlier of a Commission determination generically resolving the appropriate timing and cost recovery process for the investor-owned electric utilities, or a Commission determination specific to PacifiCorp finding the ECAC (or some other mechanism) is the appropriate cost recovery vehicle.

The settlement provides that DRA believes that the rates sought in the Application, apart from the AB 32 related costs and revenues, are just and reasonable.

The Commission is addressing the appropriate mechanisms for the allocation and recovery of AB 32 costs and revenues elsewhere in its proceedings, and it is important that we be consistent in our handling of these issues. Based on the foregoing, the Settlement Agreement addresses the issues in the proceeding in a reasonable manner in light of the record as a whole.

### **Consistent With the Law**

A memorandum account allows a utility to track costs arising from events that were not reasonably foreseen in the utility's last GRC. By tracking these costs in a memorandum account, a utility preserves the opportunity to seek recovery of these costs at a later date. However, when the Commission authorizes a memorandum account, it has not yet determined whether recovery of booked costs is appropriate, unless so specified.

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<sup>12</sup> D.05-11-005 at 16.

The Commission often considers four factors in determining whether to authorize a memorandum account:<sup>13</sup>

- The expense is caused by an event of an exceptional nature that is not under the utility's control;
- The expense cannot have been reasonably foreseen in the utility's last GRC and will occur before the utility's next scheduled rate case;
- The expense is of a substantial nature in the amount of money involved; and
- The ratepayers will benefit by the memorandum account treatment.

The Commission has considered all these factors, considered only some of these factors, or relied on other public policy considerations in determining whether to authorize a memorandum account. Regardless of the specific factors considered, the question presented to the Commission in all instances is whether a utility should be permitted to seek recovery of these costs at a later date.

All four of these factors are met here. In March 2011 the CARB determined that PacifiCorp's share of the program costs of implementing AB 32 was \$188,476.00 and sent PacifiCorp a bill for that amount. PacifiCorp has been subject to mandatory GHG emission reporting since 2009, has been required to hire an independent third party to verify the accuracy of its GHG to CARB since 2010, expected to spend \$99,580 for that verification work in 2011 and (according to the Stipulation) expects to pay \$50,000 for that verification work in 2012. These events were outside the control of PacifiCorp, could not have been reasonably foreseen when PacifiCorp filed its last GRC in August of 2008, and involve a

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<sup>13</sup> D.10-04-031.

substantial amount of money. Moreover, the Commission has decided that a memorandum account is the appropriate mechanism for the four major IOU's to use to record AB 32 related costs and revenues. In this case, removing the AB 32 costs from the ECAC application and placing them in a memorandum account preserves the issue for future consideration in the same form as it is preserved for the four major IOU's, and serves a sound public policy of pursuing consistent treatment of the costs of implementing AB 32 and benefits PacifiCorp's ratepayers by ensuring that PacifiCorp's AB 32 costs are thoroughly examined before being passed through to ratepayers.

It is worth noting that, unless specified otherwise, authorization of memorandum accounts does not mean that the Commission has decided that the types of costs to be recorded in the accounts should be recoverable in addition to rates that have been otherwise authorized, e.g., in a general rate case. Instead, the utility shall bear the burden when it requests recovery of the recorded costs, to show that: the costs have not been recovered through otherwise authorized rates; recovery of the types of costs recorded in the accounts -- in addition to otherwise authorized rates -- is reasonable; the utility acted prudently when it incurred these costs; and the level of costs is reasonable. Thus, PacifiCorp is reminded that just because the Commission has authorized memorandum accounts does not mean that recovery of costs in the memorandum accounts from ratepayers will be approved.

Generally, the authorization of a memorandum account has the effect of eliminating retroactive ratemaking concerns. That is because only costs incurred from and after the date the memorandum account is authorized are generally recorded in the account. As the Commission said in the *Southern California Water Co. Headquarters* case, D.92-03-094 (March 31, 1992) 43 Cal. PUC 2d 596, 600.

It is a well established tenet of the Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum or balancing account for possible future recovery in rates. This practice is consistent with the rule against retroactive ratemaking. (Emphasis in original.)

This decision, however, authorizes PacifiCorp to include in its new memorandum account costs incurred prior to the date of this decision (e.g. CARB implementation fees paid in 2011). Therefore, when PacifiCorp seeks to recover amounts recorded in this new memorandum account, a relevant issue will be whether when it incurred expenses prior to the date of this decision it had some other memorandum or balancing account (e.g. the ECAC balancing account), and if not, whether it should therefore be barred from recovering such amounts pursuant to the above-cited precedent.

The Settlement Agreement is consistent with the law and precedent. It does not contravene any statute or Commission decision or rule. More specifically, it does not decide any issues contrary to the *Southern California Water Co. Headquarters* precedent cited above. Moreover, the treatment of the AB 32 related costs and revenues is consistent with the Commission's previous decisions on how the other electric utilities are allowed to handle their AB 32 related costs and revenues.

**In the Public Interest**

The Settlement Agreement is in the public interest and in the interest of PacifiCorp’s customers who will be better protected and better served as a result of the terms and conditions of The Settlement, which allow for a more thorough airing of how PacifiCorp’s AB 32 costs and revenue should be handled. The Settlement Agreement is consistent with the Commission’s well-established policy of supporting the resolution of disputed matters through settlement, reflects a reasonable compromise between the Settling Parties’ positions, and will avoid the time, expense and uncertainty of evidentiary hearings and further litigation. Accordingly, the Settlement Agreement is in the public interest and should be adopted by the Commission without material change.

Based on the foregoing, we approve the Settlement Agreement as proposed.

**Summary of Request**

PacifiCorp’s proposed increase, as modified by the terms of the All Party Written Stipulation, would result in the following price changes by customer class:

<b>Customer Class</b>	<b>Requested Base Price Percent Change</b>
Residential	1.5%
Commercial/Industrial	1.8%
Irrigation	1.7%
Lighting	1.0%
<b>Overall</b>	<b>1.6%</b>

Rates for net power costs are unbundled from other rates and are collected through the ECAC Tariff Rate Rider, Schedule ECAC-94.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3279 dated August 18, 2011, the Commission preliminarily categorized this Application, and preliminarily determined that hearings were necessary. No protests have been received and DRA's concerns were resolved by the Stipulation. There is no apparent reason why the Application, as modified by the Stipulation, should not be granted. Given these developments, a public hearing is not necessary, and hearings determination is changed to state that no evidentiary hearings are necessary.

### **Waiver of Comment Period**

No protests were filed to the Application and DRA's concerns were resolved by the Stipulation we now adopt. Thus, today's decision grants the relief requested in an uncontested matter. Accordingly, pursuant to Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

### **Assignment of Proceeding**

Michel P. Florio is the assigned Commissioner and Richard W. Clark is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. PacifiCorp's use of the ECAC to determine its 2011 revenue requirement increase was approved in D.06-12-011, with each of its requests for subsequent adjustments approved in D.08-11-058, D.09-12-027, and D.10-11-021.
2. On January 9, 2012 PacifiCorp and DRA filed a Joint Motion for Commission Approval and Adoption of Written Stipulation regarding A.11-08-001.

3. The January 9, 2012 Stipulation requests that PacifiCorp be authorized to establish a memorandum account for recording CARB implementation fees and mandatory reporting and verification costs required to implement AB 32 that were included in A.11-08-001 that have been or will be incurred in calendar year 2011 and beyond.

4. The January 9, 2012 Stipulation requests that PacifiCorp be authorized to remove the issue of the handling revenues from the sale of free allowances and the costs for purchasing allowances from A.11-08-001.

5. PacifiCorp's actual 2011 Offset Rate is \$28.35 per MWh.

6. PacifiCorp's proposed 2012 Offset Rate is \$31.20 per MWh.

7. PacifiCorp's actual 2011 Balancing Rate is \$1.34 per MWh.

8. PacifiCorp's proposed 2012 Balancing Rate is \$0.47 per MWh.

9. The calculations presented in the Stipulation are consistent with prior Commission decisions in prior PacifiCorp rate cases.

10. PacifiCorp's rate increase of approximately \$1.64 million, or 1.6%, is reasonable.

11. Adoption of the Stipulation will save the Commission and the Parties significant expense and undue expenditure of resources, when compared to the risk, expense, complexity, and likely duration of evidentiary hearings.

12. PacifiCorp's AB 32 implementation costs were caused by an event of an exceptional nature that was not under the utility's control, could not have been reasonably foreseen in the utility's last GRC and occurred before the utility's next scheduled rate case, involve a substantial amount of money, and its ratepayers will benefit by memorandum account treatment of those costs.

13. The Stipulation's treatment of PacifiCorp's AB 32 related costs and revenues is consistent with the Commission's previous decisions on how the

other electric utilities are allowed to handle their AB 32 related costs and revenues.

### **Conclusions of Law**

1. PacifiCorp's proposed 2012 Offset Rate and proposed 2012 Balancing Rate are reasonable.

2. The Commission is addressing the appropriate mechanisms for the allocation and recovery of AB 32 costs and revenues elsewhere in its proceedings, and it is important that the Commission be consistent in handling these issues. The Stipulation allows for a consistent and thorough airing of how PacifiCorp's AB 32 costs and revenue should be handled.

3. It is a well established tenet of the Commission that ratemaking is done on a prospective basis. The Commission's practice is not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum or balancing account for possible future recovery in rates. This practice is consistent with the rule against retroactive ratemaking.

4. The Stipulation does not decide any issues contrary to the precedent of *Southern California Water Co. Headquarters*, D.92-03-094 (March 31, 1992) 43 Cal. PUC 2d 596, 600, quoted in the immediately preceding Conclusion of Law .

5. The provisions of the January 9, 2012 Joint Motion of PacifiCorp and the DRA for Commission Approval and Adoption of Written Stipulation are reasonable in light of the whole record, consistent with the law and in the public interest.

6. The January 9, 2012 Joint Motion of PacifiCorp and the DRA for Commission Approval and Adoption of Written Stipulation is granted.

7. PacifiCorp meets the relevant tests for establishing a memorandum account in which to records its AB 32 implementation costs and therefore should be authorized to establish such a memorandum account for recording CARB implementation fees and mandatory reporting and verification costs required to implement AB 32 that were included in A.11-08-001 and costs that have been or will be incurred in calendar year 2011 and beyond.

8. When it seeks to recover the AB 32 costs recorded in this memorandum account in rates, PacifiCorp shall bear the burden to show that: the costs have not been recovered through otherwise authorized rates; recovery of the types of costs recorded in the accounts -- in addition to otherwise authorized rates -- is reasonable; it acted prudently when it incurred these costs; and the level of costs is reasonable. As part of its showing, PacifiCorp shall show for those costs incurred prior to the date of this decision, whether it had some other memorandum or balancing account at the time those costs were incurred in which to properly record those costs.

9. PacifiCorp's request to remove the issue of the handling revenues from the sale of free allowances and the costs for purchasing allowances from A.11-08-001 is granted. PacifiCorp may seek to recover these AB 32 related costs in rates following the earlier of a Commission determination generically resolving the appropriate timing and cost recovery process for the investor-owned electric utilities, or a Commission determination specific to PacifiCorp finding the ECAC (or some other mechanism) is the appropriate cost recovery vehicle.

10. Hearings are not necessary.

**O R D E R**

**IT IS ORDERED** that:

1. The January 9, 2012 Joint Motion for Commission Approval and Adoption of Written Stipulation is granted.
2. The application of PacifiCorp to implement its Energy Cost Adjustment Clause, as modified by the Stipulation, is approved.
3. There is hereby established, effective as of the date of this decision, an Assembly Bill 32 (AB 32) Implementation Costs memorandum account for recording California Air Resources Board implementation fees and mandatory reporting and verification costs required to implement AB 32 that were included in Application 11-08-001 and costs that have been or will be incurred in calendar year 2011 and beyond.
4. Within 30 days of today's date, PacifiCorp shall file a Tier 1 advice letter with tariffs to implement the new rates and the memorandum account approved by this Order. These new rates shall become effective on the filing of the advice letter, subject to the Energy Division determining that they are in compliance with this Order. PacifiCorp shall include language to the following effect in the tariff for its Assembly Bill (AB) 32 Implementation Costs Memorandum Account. PacifiCorp may seek recovery of the costs included in this memorandum account once the Commission's makes its ultimate disposition of the appropriate mechanisms for the allocation and recovery of AB 32 costs and revenues. When PacifiCorp seeks recovery of any sums recorded in this memorandum account, PacifiCorp shall have the burden of establishing that: the costs recorded in the memorandum account have not been recovered through otherwise authorized rates; recovery of the types of costs recorded in

the account -- in addition to otherwise authorized rates -- is reasonable; the utility acted prudently when it incurred these costs; and the level of costs is reasonable. In addition, PacifiCorp shall show whether recovery of costs incurred before creation of the AB 32 Implementation Costs Memorandum Account is consistent with the precedent stated in the Southern California Water Co. Headquarters case, D.92-03-094 (March 31, 1992) 43 Cal. PUC 2d 596, 600.

5. The handling of revenues from the sale of free allowances and the costs for purchasing allowances are removed from Application 11-08-001. PacifiCorp may seek to recover these Assembly Bill 32 costs in rates following the earlier of a Commission determination generically resolving the appropriate timing and cost recovery process for the investor-owned electric utilities, or a Commission determination specific to PacifiCorp finding the Energy Cost Adjustment Clause (or some other mechanism) is the appropriate cost recovery vehicle.

6. The hearing determination is changed to no hearings necessary.

7. Application 11-08-001 is closed.

This order is effective today.

Dated March 8, 2012, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
TIMOTHY ALAN SIMON  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
Commissioners