

July 26, 2010

***VIA ELECTRONIC FILING***

Washington Utilities and Transportation Commission

1300 S. Evergreen Park Drive SW

P.O. Box 47250

Olympia, WA 98504-7250

Attention: David W. Danner

Executive Director and Secretary

**RE: UE-100865 Rulemaking to Implement Revisions to Greenhouse Gas Emissions Performance Statute - Comments**

Dear Mr. Danner:

PacifiCorp, d.b.a. Pacific Power (PacifiCorp or Company) submits the following comments in accordance with the Washington Utilities and Transportation Commission’s (Commission) Notice of Opportunity to File Written Comments (Notice) issued in Docket UE-100865 on June 25, 2010. The Notice includes proposed revisions to the Commission’s greenhouse gas emissions performance standard rules contained in WAC 480-100-405, -415, -425 and -435 (Discussion Draft) to address revisions to RCW 80.80 regarding greenhouse gas emissions. Included with these comments as Attachment A is a redlined version of the proposed revisions indicating PacifiCorp’s recommended changes.

As an initial matter, this rulemaking should consider the extent of the Commission’s and the Washington Department of Ecology’s (Department) extraterritorial authority to implement and enforce the emissions performance standard as it relates to power plants located outside the state.

**WAC 480-100-405**

The Discussion Draft includes changes to several definitions to conform to amendments to RCW 80.80.010, enacted with the passage of House Bill 2129 (HB 2129) in 2009. The Company notes two items for comment. First, the Discussion Draft adds a statement to WAC 480-100-405(2)(d), the definition of “long-term financial commitment,” to exclude long-term financial commitments with the Bonneville Power Administration (BPA). The Company notes that HB 2129 amended RCW 80.80.040 to add a new subsection (2) to indicate that the chapter does not apply to long-term financial commitments with BPA.

To avoid potential confusion over the differences in the definition of “long-term financial commitment” contained in the statute versus the definition contained in the rules, the Company encourages the Commission to consider moving the proposed revision from WAC 480-100-405(2)(d) to WAC 480-100-405(1).

Second, in proposed WAC 480-100-405(2)(g), the Discussion Draft proposes to expand the definition of power plant to include facilities located outside of the state. As the Commission is aware, the Company is a multi-state integrated utility serving customers in six Western states, including California, Idaho, Oregon, Utah, Washington and Wyoming. This definitional change raises a significant question as to the Commission’s and/or the Department’s ability to regulate facilities located outside the state. To help provide a level of regulatory certainty, the Company encourages the Commission to provide the opportunity for the parties to this proceeding to openly discuss how the Commission and Department interpret their extraterritorial authority to implement and enforce the state’s emissions performance standards as it relates to facilities located outside the state.

**WAC 480-100-415**

The Draft Discussion includes WAC 480-100-415(3)(a)(iii) and (3)(b)(iii), which requires applicants to provide “[s]uch other information as is available concerning the exhaust emissions characteristics of the plant including total annual pounds of greenhouse gas from each power plant.” This requirement is vague and potentially unachievable. While it is reasonable to request the total annual pounds of greenhouse gas from each power plant, the Company is unable to determine how to provide “such other information as is available” describing exhaust emissions characteristics of the plant, as the Company may not be aware of all available information or whether such information must relate to the plant directly or indirectly. The Company encourages the Commission to consider in this rulemaking the appropriate scope for the type and source of information that may be supplied in response to these rule provisions.

**WAC 480-100-425**

At this time, the Company has no comments on the proposed revisions to this section but reserves the right to provide comments during the course of this proceeding if the need arises.

**WAC 480-100-435**

At this time, the Company has no comments on the proposed revisions to this section but reserves the right to provide comments during the course of this proceeding if the need arises.

PacifiCorp appreciates the opportunity provide comments. The Notice does not contain next steps for this proceeding. The Company suggests that it may be beneficial to allow for reply comments or other opportunities to discuss the issues. If you have any questions regarding these comments, please contact Cathie Allen, Regulatory Manager, (503) 813-5934.

Sincerely,

Andrea L. Kelly

Vice President, Regulation