

June 11, 2010

***VIA ELECTRONIC FILING***

Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

Attention: David W. Danner  
Executive Director and Secretary

**RE: Docket UE-100849 Statement of Issues and Positions**

Dear Mr. Danner:

PacifiCorp, d.b.a. Pacific Power (PacifiCorp or Company) submits the following statement of issues and positions in accordance with the Washington Utilities and Transportation Commission's (Commission) Notice of Opportunity to File Statements of Issues and Written Comments (Notice) issued in Docket UE-100849 on May 21, 2010. As part of the Commission's inquiry on the regulatory treatment for renewable energy resources, the Company encourages the Commission to include the following issues:

**Issues Associated with the Regulatory Framework**

**Issue 1:** WAC 480-109-020(1) and (2) requires utilities to use sufficient renewable energy resources or acquire renewable energy credits (RECs), or a combination of both *by January 1* of the target year. (Emphasis added). This language is problematic in that utilities must acquire enough RECs by January 1 of the target year rather than in the statutorily allotted timeframe per RCW 19.285.040(2)(e) that includes the entire target year, preceding year and subsequent year. The WAC interpretation of RCW 19.285.040(2)(a) conflicts with provisions in RCW 19.285.040(2)(e), narrowing the period for renewable resource acquisition even more than allowed by statute. This issue multiplies the Company's concerns that are expressed as Issue 6. Additionally, in the absence of unlimited banking, this requirement may lead a utility to procure more RECs than necessary at any given time or being out of compliance with the renewable portfolio standard (RPS) due to factors beyond the utility's control (e.g., actual load in a year being higher than expected and/or actual REC generation in year being lower than expected).

Moreover, there are limitations in the timing of the creation of Western Renewable Energy Generation Information System (WREGIS) certificates. WREGIS certificates are created monthly, 90 days following the last day of the month of generation. Therefore based on WAC 480-109-020(1) and (2) that requires utilities to acquire RECs by January 1, utilities would only be able to use RECs from September of the prior year.

Proposed Solution: Revise WAC 480-109-020(1) and (2) to require acquisition of renewable resources or RECs by December 31 of the year subsequent to the target year. This change is in accordance with RCW 19.285.040(2)(e) and, in combination with unlimited banking as described in Issue 6, would benefit customers by allowing utilities to know the exact amount of incremental RECs needed for compliance, if any, in any given year resulting in lower cost for customers.

**Issue 2:** Allocations for PacifiCorp exclude renewable resources in Wyoming that are within the PacifiCorp system. In addition, resources acquired prior to the Company demonstrating a need may not be found prudent and therefore disallowed in rates. This would impact the company's ability to take advantage of opportunities to procure cost-effective renewable resources to meet the renewable portfolio standard earlier than required.

Proposed Solution: In addition to the proposed solution suggested in Issue 7, the Company recommends that the Commission continue to consider transmission capability and over time the addition of renewable resources that are within PacifiCorp's system but located outside of PacifiCorp's west control area. The Company also recommends that the Commission allow for increased flexibility in acquiring cost-effective renewable resources earlier than required. This flexibility will allow utilities to have the ability to utilize the federal production tax credits, due to expire December 31, 2012, and provide customers with the benefits of other market opportunities that may arise prior to the planning need established in the Integrated Resource Plan.

**Issue 3:** Currently, there is no Washington agency designated with responsibility for oversight of an entity's registration of renewable resources and confirming the eligibility in WREGIS.

Proposed Solution: PacifiCorp recommends that the Commission assign a member of the Commission staff as the "program administrator". A program administrator is critical in ensuring RECs submitted as eligible for compliance with a renewable resource acquisition target meet the eligibility requirements. The Company anticipates that designation of a program administrator will not materially increase the work load of Commission staff or require additional staff to be added.

**Issue 4:** During the 2009 legislative session, the Washington Legislature revised RCW 80.80.060(6), which allows for a utility to defer certain costs associated with long-term financial commitments, to include eligible renewable resources as defined in RCW 19.285.030. WAC 480-100-435(1) has not been updated to reflect this change.

Proposed Solution: Modify WAC 480-100-435(1) to incorporate this change.

**Issue 5:** RCW 19.285.070 requires utilities, on or before June 1, 2012 and annually thereafter, to report on its progress in the preceding year in meeting the targets established in RCW 19.285.040. Therefore, utilities submit their first report six months into the three-year REC generation period currently allowed in RCW 19.285.040(2)(e).

Proposed Solution: Clarify by rule that the report required on June 1, 2012 is a progress report, rather than a final compliance report. A final compliance report should be required six months after the three-year REC generation period. For example, June 1, 2014 utilities should be required to report on their compliance to meet the January 1, 2012 target of acquiring renewable resources to meet 3 percent of their load.

### **Issues Associated with the Statutory and Legislative Framework**

**Issue 6:** Utilities may only utilize RECs for RPS compliance during the target year, the prior year and the following year. This limits a utility's ability to fully utilize RECs for future RPS compliance, preventing customers from receiving the full cost-effective benefit of RECs associated with renewable energy commitments. Such a practice ultimately leads to increased customer costs for RPS compliance.

Proposed Solution: Allow unlimited REC banking by removing the expiration date on RECs. Adding a "first-in, first-out" provision will provide a check and balance by requiring utilities to retire RECs for RPS compliance according to the date of creation.

RCW 19.285.040(2)(e) is the ultimate source for the limitation on banking of RECs. PacifiCorp encourages the Commission to consider a strategy for improving the renewable resource acquisition and reporting process that includes working towards legislative changes that benefit customers. Allowing unlimited REC banking is one such legislative change to consider.

**Issue 7:** Eligible renewable energy facilities must be located in the Pacific Northwest and if the facility is not located in Washington then the electricity from the facility must be scheduled and delivered on a real-time basis to Washington for the output to be counted towards the RPS.

Proposed Solution: Expansion of the geographic area for qualifying energy to include the area encompassed by the Western Electricity Coordinating Council (WECC) and additional clarification regarding the real-time delivery requirement. The WECC service territory extends from Canada to Mexico and includes the provinces of Alberta and British Columbia, the northern portion of Baja, Mexico and all or portions of the 14 western states in between. Allowing for an expanded geographic area will increase the number of eligible resources available to utilities for RPS compliance and will benefit customers by assuring a broad source of reasonable least-cost alternatives is considered. Moreover, it is currently unclear how utilities would operationally meet the real-time delivery requirement and whether this provision has any impact on renewable resource procurement to meet the RPS. PacifiCorp encourages the Commission to consider working towards legislative changes to expand geographic eligibility to the area encompassed by WECC and to allow for additional delivery flexibility.

**Issue 8:** The Washington RPS is relatively restrictive in its treatment of hydroelectric generation and only counts electricity associated with efficiency improvements as an eligible renewable resource, limiting clean and low-cost renewable energy options for Washington citizens.

Proposed Solution: The Company encourages the Commission to consider other states' treatment of hydroelectric generation and work towards legislative changes to expand the definition of eligible renewable resources to include more types of hydroelectric generation, such as low-impact hydroelectric generation as allowed for RPS compliance in Oregon. A low-impact hydroelectric generation facility is thoroughly reviewed to ensure it has taken measures to avoid or reduce its environmental impact in the following areas: river flows, water quality, fish passage and protection, watershed protection, threatened and endangered species protection, cultural resource protection, recreation, and facilities recommended for removal. These facilities receive certification that they meet the most recent and most stringent operational requirements.

**Issue 9:** Permitting counties in Washington often include facility decommissioning requirements as a permit condition. By doing so, a Washington county may inadvertently include provisions that do not recognize the Commission's primacy as it relates to decommissioning of renewable resources held by a regulated utility. If compliance with a county requirement results in duplicative or unnecessary costs (e.g., costs for a regulated utility to supply decommissioning bonds or other forms of decommissioning security) then customers will be exposed to unnecessary or duplicative costs over the life of the facility.

Proposed Solution: PacifiCorp encourages the Commission to consider a strategy for legislatively clarifying that no county may invoke facility decommissioning requirements that do not recognize the primacy of the Commission as it relates to assets held by a regulated utility. For example, no county should require a regulated utility to decommission a regulated asset in advance of that point in time that the Commission has reviewed and ruled on a utility's application to decommission, sell or otherwise dispose of an asset subject to the Commission's authority.

PacifiCorp appreciates the opportunity to provide a statement of issues and proposed solutions and looks forward to participating in the Commission's review. Please direct any questions regarding these comments to Cathie Allen, Regulatory Manager, (503) 813-5934.

Sincerely,

  
Andrea L. Kelly  
Vice President, Regulation