

November 20, 2017

**VIA ELECTRONIC FILING**

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**RE: Docket UE-171033—Pacific Power & Light Company’s Comments on Draft Rules to Implement Engrossed Substitute Senate Bill (ESSB) 5939**

In response to the Notice of Opportunity to File Written Comments issued by the Washington Utilities and Transportation Commission (Commission) on October 19, 2017, Pacific Power & Light Company (Pacific Power or Company), a division of PacifiCorp, appreciates the opportunity to provide the following written comments regarding the framework for Commission regulatory oversight over community solar companies. The Company looks forward to continuing to work with Staff and stakeholders in this docket.

As the Commission moves forward in developing an appropriate structure to regulate community solar companies, certain principles should inform the development of the rules. The rules should ensure that:

- Participants receive clear and accurate information about the terms, costs, and benefits of participation in a community solar company’s project;
- Community solar companies have a plan to provide sufficient customer service to participants;
- Community solar companies have the wherewithal and planning to keep facilities operating as stated in their proposals; and
- Community solar companies minimize risk to participants as much as appropriate.

With those principals in mind, Pacific Power provides the following comments in response to Staff’s questions:

**1. Consumer rules for electric companies are found in Washington Administrative Code (WAC) 480-100-103 through 480-100-199. Based on your understanding of community solar company business practices, are there any sections of WAC 480-100 that should not be applied to the new consumer protection rules and why? Are there additional consumer protection issues that we should address?**

The Consumer Rules (WAC 480-100-103 through 480-100-199) have the detail necessary to regulate the complex relationship between an electricity provider and its customers. However, much of this complexity does not apply to the relationship between a community solar company and the individual customers who voluntarily participate in a community solar project. Rather than simply analyzing which sections do not apply, Pacific Power believes a

more valuable exercise will be to determine which rules should apply and the justification for why they are necessary, and whether the rules should be tailored to community solar companies. Following is a list of pertinent rules and concepts the Company believes should be addressed for community solar companies.

**WAC 480-100-103 Information to Consumers.**

The Commission should determine minimum availability of information and customer service standards for community solar companies. This should include, at a minimum, a website and toll-free telephone number available for participants during business hours to provide information about the terms, costs and benefits of participation, and to respond to customer inquiries and complaints.

The Commission should establish a set of required disclosures that must be provided to customers before seeking a commitment. For example, these disclosures should include:

- Project description: The size, location, and anticipated commercial online date of the project.
- Total participation cost: The total cost a participant will be expected to pay over the life of the program.
- Estimated output: The amount of energy the facility is expected to generate per share and a statement explaining the risk of potential project underperformance.
- Energy benefit: What energy benefit will the participant receive from the facility and how will they receive it.
- Tax benefit: What is the estimated tax benefit the participant will receive and how they will receive it.
- Participation terms: Details about participation commitments including length of program participation, termination protocol and fees, the transferability of project shares and the disclosure and/or remediation process in the event that the project is out of service or otherwise underperforming.
- Billing terms: A detailed explanation of how participants will be billed and pay for their participation.
- Renewable Energy Certificate (REC) ownership: Who will own the RECs from the facility, what renewable energy claims can be made by the participant, and what compensation the participant will receive if an entity other than the customer retains ownership of the RECs generated by the participant's share.
- Dispute resolution: Contact information for questions and complaints and agreement to update and notify the participant if ownership changes.

**WAC 480-100-108 Application for Service.**

The Company does not object to consumer protections that limit the application process and/or the information that can be requested from customers by a community solar company; however, the Commission should consider that some potentially sensitive customer information may be necessary to understand an applicant's credit risk.

**WAC 480-100-113 Residential services deposit requirements.**

Because of the voluntary nature of this program, the Company does not believe it is necessary to dictate when and for how long a deposit can be charged by a community solar company.

The Company believes that the Commission should develop specific requirements for community solar projects that seek to require participation deposits. These requirements should discuss:

- How the deposits should be treated and whether they will be held in escrow by a third party.
- Whether the deposits can be accessed to provide operating capital for project development.
- Under what specific circumstances the solar company should refund a deposit.
- Whether partial refunds will be permitted, and if so, under what circumstances.
- The necessary protections to ensure the funds are available if the project does not move forward.

**WAC 480-100-148 Service responsibility.**

The Commission should develop requirements for the operation and maintenance of the solar facility. These requirements should provide assurance that the community solar company will continue to maintain the facility through the life of the agreement with participants.

**WAC 480-100-153 Disclosure of private information.**

The Commission should continue to include provisions placing restrictions on the use and distribution of sensitive participant information without participant consent.

**WAC 480-100-173 Electric utility responsibility for complaints and disputes.**

The Commission should develop a dispute resolution process specific to community solar companies. The community solar companies should be required to agree to this process. Contracts between community solar companies and participants should include provisions allowing the Commission to dissolve contracts for non-performance by the community solar company.

**WAC 480-100-178 Billing requirements and payment date.**

The majority of these requirements do not apply to the relationship between a community solar company and a community solar project participant. At minimum, community solar companies should be required to:

- Show the total amount due and payable.
- Show the date the bill becomes delinquent if not paid.
- Show the amount of kilowatt-hours produced by the customer's share of the community solar project over the billing period.
- Show the total compensation provided to the participant over the billing period.
- Show the community solar company's business address, business hours, and a toll-free telephone number and an emergency telephone number by which a customer may contact the utility.

The Commission should evaluate whether placing limits on the ability of community solar companies to collect contractual payments in non-payment situations is appropriate. At a minimum, a review of the contract between the community solar company and the participant

should be conducted to ensure that contractual remedies are evenly balanced between the parties.

**WAC 480-100-193 Posting of tariffs for public inspection and review.**

As stated above, the Commission should require that community solar companies provide clear information to participants on the costs and benefits of participation in the project. This information should be reviewed by the Commission for accuracy, and should be publicly available for review and reference by the participant throughout the operation of the project.

**2. We examined WAC 480-14 as an example of rules for application; reporting; fees; and suspension, cancellation, and reinstatement of permits. Specifically, we looked at WAC 480-14-140, 480-14-150, 480-14-180, 480-14-190, 480-14-220, 480-14-230, and 480-14-999. Based on your understanding of community solar company business practices, are there other rules that should be considered? In addition, which rules do you disagree with and why?**

Pacific Power believes that the rules referenced above could provide a model to be replicated for the development of community solar company regulations.

**3. ESSB 5939 identifies community solar projects as no larger than 1000 kilowatts with at least 10 participants. If a project has fewer than 10 participants, does that project need to be included on the list published by the commission?**

Pacific Power does not believe that the Commission should limit inclusion in the list to projects that have already secured 10 participants. Pacific Power believes that this list could provide a public service by connecting potential participants with projects in the development stages. An alternate approach could be to provide a bifurcated list of projects. One list would publish projects that have successfully interconnected and have secured a minimum of 10 participants, ensuring their viability as a community solar project. The other list could be of projects in the development stage where additional customers are required to allow the project to move forward. The list would be a more complete clearing house of all potential projects being developed, and potentially lead to more community solar development.

**4. Based on your understanding of community solar company business practices, are there other rules that should be considered? Which rules do you disagree with and why?**

Pacific Power has no additional considerations for this question.

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Pacific Power appreciates the opportunity to provide comments regarding the Commission's rulemaking to oversee community solar companies and we look forward to further participating in this proceeding. Please direct inquiries to Jason Hoffman, Regulatory Projects Manager, at (503) 331-4474.

Sincerely,

          /s/          

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