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VIA ELECTRONIC FILING

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

Attention: Dave Danner
Executive Secretary

Re: UE-090222, Review of PURPA Standards in the Energy Independence and Security Act of 2007

Dear Mr. Danner,

On March 20, 2009, the Washington Utilities and Transportation Commission ("Commission") issued a Notice of Opportunity to File Written Comments ("Notice") on the Preproposal Statement of Inquiry (CR-101) filed with the Code Reviser by the Commission on March 18, 2009. The Commission seeks public comment on whether new regulations are needed in response to new federal standards included in the Energy Independence and Security Act of 2007 ("EISA"). EISA amends the Public Utility Regulatory Policy Act of 1978 ("PURPA") by setting forth new federal standards for electric utility companies that address, among other issues, integrated resource planning, rate design modifications to promote energy efficiency investments, consideration of smart grid investments and smart grid information.

The Notice includes a two part Commission inquiry, with part one focusing on electric utilities and part two focusing on natural gas utilities. PacifiCorp, d.b.a. Pacific Power ("PacifiCorp" or "Company") submits the following comments in response to part one of the Notice.

Integrated Resource Planning

EISA Section 532(a)(16)(B) requires that each electric utility shall adopt policies establishing cost-effective energy efficiency as a priority resource. The Notice indicates the Commission will examine whether it should amend WAC 480-100-238 ("IRP Rule") and WAC 480-109 to adopt energy efficiency as a "priority resource." The Commission will consider its prior policy as established in the IRP rule in addition to the purpose of PURPA to encourage conservation of energy supplied by electric utilities, optimal efficiency of electric utility facilities and resources, and equitable rates for electric consumers. In response to the questions posed in Section 1.A of the Notice, the Company offers the following:

1) **Should the Commission, by rule, implement part B of PURPA Standard 16 establishing cost-effective energy efficiency as a priority resource?**

PacifiCorp believes that the Commission's current standards satisfy the intent of Standard 16(B).

2) **What is a "priority resource"?**

In the context of Standard 16(B), the Company interprets the term "priority resource" as a resource that is considered and weighted equally, and without prejudice, to other resource options in utility integrated resource planning.

3) **Does the term "priority resource" differ in affect from the requirement to pursue all cost-effective conservation? If so, how?**

No, the Company believes that the intent of the term "priority resource" and the Washington IRP requirement to pursue all cost-effective conservation are congruent issues. In the Company's resource planning process, energy efficiency and supply side resources are selected based on their cost effectiveness and the balance between cost and risk exposure. Energy efficiency resources are selected for implementation over supply-side resources when they compare favorably to supply-side resources with respect to the criteria listed above. Energy efficiency resources are a priority resource of the Company, as they are considered equally along with supply-side resources in the Company's resource planning process.

4) **If establishing energy efficiency as a priority resource requires the acquisition of energy efficiency in aggregate that is above the cost effectiveness threshold, would its establishment as a priority resource conflict with any existing policy established in state law statute or regulation?**

WAC 480-100-238(1), integrated resource planning, states that "each electric utility regulated by the commission has the responsibility to meet its system demand with a least cost mix of energy supply resources and conservation." In addition, RCW 19.285.040(1), energy conservation and renewable energy targets, states that "each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible." Further, WAC 480-109-010(1), conservation resources, states that utilities "need only consider conservation resources that are cost effective, reliable and feasible" in projecting conservation potential as required by this statute. The common theme amongst these statutes is that energy efficiency or conservation resources are subject to standards of least cost or cost effectiveness. Considering the language in the cited statutes, the Company believes that any Commission requirement to acquire energy efficiency resources beyond the cost effectiveness or least cost threshold is in conflict with established policy.

5) **If establishing energy efficiency as a priority resource does not mean pursuing additional energy efficiency above the cost effectiveness threshold, then how would it differ from current Commission regulation and policy?**

As described in the Company's response to question 3 of this section, the Company believes that establishing energy efficiency as a priority resource does not differ from current Commission regulation and policy. Integrated resource planning that considers energy efficiency resources equally along with supply side resources treats energy efficiency as a priority resource.

Rate Design Modifications to Promote Energy Efficiency Investments

PacifiCorp currently offers inverted rates to residential customers in Washington. This rate design gives residential customers a price signal about the higher cost of increasing energy usage and is designed to encourage energy conservation. Most general service customers pay a two part rate (demand and energy charges) which give customers separate price signals about the costs of capacity and energy. Large general service customers pay rates that are time-differentiated in such a way that customers may shift load, reduce peak and lower their costs.

In the Company's current general rate case (Docket UE-090205), the Company has proposed to further differentiate large general service rates so that these rates will more accurately reflect service characteristics and give more appropriate price signals.

Regarding EISA Section 532(a)(17), in response to the Commission's questions raised in Section 1.B of the Notice, the Company offers the following:

1) **Are there modifications to current utility block electric rate designs that could promote conservation? How would such modifications be implemented in a rulemaking?**

The Company is not proposing structural changes to the current residential inverted energy charge rate structure in Washington. Please also refer to response 4 of this section below. Any rate structure changes should be implemented in a rate case or similar proceeding where test period costs and loads can be utilized and reviewed for impact.

2) **What are the implications for utility conservation efforts if the incremental cost of power is higher than the cost of power embedded in rates? Under such circumstances, what, if any, incentives should be considered to encourage a utility to promote conservation between rate cases?**

If the incremental cost of power is higher than the cost of power embedded in rates (as is the current situation for PacifiCorp), customers will receive the wrong price signals and will not pursue all cost-effective energy conservation investments. PacifiCorp has suggested in states with significant load growth (e.g., Utah and Wyoming) that marginal

generation costs should be considered when setting energy charges. This provides a better price signal to customers regarding the cost of serving incremental usage.

3) **If customers supply much of the investment in energy efficiency, even when they participate in and receive utility sponsored incentives, what additional incentive could be provided by the electric rate design?**

See response to question 4 in this section below.

4) **Would an electric rate design with larger fixed charges reduce the customer incentive to conserve?**

An electric rate design with larger fixed charges and variable charges that send appropriate price signals would likely increase the customer incentive to conserve. It would more closely reflect the actual cost of serving all customers within the rate schedule class, and it could be structured to provide stronger price signals than present rates as discussed in response to question 2 in this section above.

The fixed charge components of rates should include a significant portion of the fixed costs of serving customers. While this has not been a problem in the commercial and industrial classes, it has been and continues to be a problem for residential rates in most states. As a result, customers receive inaccurate price signals, and utilities are confronted with a disincentive to promote lower sales of electricity.

This disincentive occurs because each kilowatt hour of sales reduction below test period levels represents a portion of fixed costs not recovered. One response has been formulas that seek to decouple fixed cost recovery (or allowed revenues) from the level of sales. Decoupling is a comparatively complex way to overcome what is simply an outdated rate design that fails to assign fixed cost recovery to the proper component of residential rates -- the basic charge.

Rather than implement complex decoupling mechanisms, some state public utility regulatory agencies are placing more of the fixed costs in the basic charge. For example, the Wyoming Public Service Commission recently approved placing about 80% of fixed costs in the Company's residential basic charge.

5) **To what extent will the penalties under Initiative 937 provide an incentive for utilities to achieve the energy efficiency goals established in Initiative 937?**

PacifiCorp does not view the penalties as an incentive. The penalty provision is not an off-ramp to compliance. It is our goal to be 100% compliant with state and federal rules and regulations. The Company intends to pursue energy efficiency programs and add renewable energy to its portfolio to the extent it is cost-effective and satisfies all of our compliance obligations. The decision should not be viewed as a choice between whether to pay the penalty or pursue a more expensive resource. Rather the penalty should be viewed as a threshold where projects whose costs fall below the penalty are presumed to

be prudent. Projects whose costs exceed the penalty would not automatically be deemed imprudent, rather the utility would have to make a stronger argument as to why the more expensive resource was necessary in order for the company to maintain its compliance with the law.

State Consideration of Smart Grid

The Notice indicates that EISA Section 1307 establishes a new three-part standard for the consideration of smart grid by the States, which the Notice discusses as Parts "A," "B," and "C."

Part A

EISA Section 1307(a)(16)(A) requires that States shall consider requiring utilities to demonstrate that, prior to investing in nonadvanced grid technologies, investments in a qualified smart grid systems were considered. In the Notice, the Commission states it has not considered explicit requirements that electric utilities demonstrate consideration of investments in smart grid technologies before investing in nonadvanced grid technologies. The Commission will consider its prior prudence standard, its existing policies and the purposes of PURPA to encourage conservation of energy supplied by electric utilities, optimal efficiency of electric utility facilities and resources, and equitable rates for electric consumers in considering the implementation of this standard. In response to the questions posed in Section 1.C, part A, the Company presents the following:

1) **What constitutes a "qualified smart grid system?"**

A "qualified smart grid system" must have the minimum functions. These functions may be used to define a "minimal" system.

- The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, or other relevant information to or from or by means of the electric utility system, through one or a combination of devices and technologies,
- The ability to measure or monitor electricity use as a function of time of day, power quality characteristics such as voltage level, current, or cycles per second and report that information by digital means,
- The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, or other relevant information to or from a computer or other control device,
- The ability to detect, prevent, communicate with regard to, respond to, or recover from system security threats, including cyber-security threats and terrorism, using digital information, media, and devices.

Furthermore, a "qualified smart grid system" must be upgradeable to perform the following functions without significant changes to the existing infrastructure:

- The ability to sense and localize disruptions or changes in power flows on the grid and communicate such information instantaneously and automatically for purposes of enabling automatic protective responses to sustain reliability and security of grid operations,
- The ability of any appliance or machine to respond to such signals, measurements, or communications automatically or in a manner programmed by its owner or operator without independent human intervention,
- The ability to use digital information to operate functionalities on the electric utility grid that were previously electro-mechanical or manual,
- The ability to use digital controls to manage and modify electricity demand, enable congestion management, assist in voltage control, provide operating reserves, and provide frequency regulation.

2) **Are the technologies that constitute a "qualified smart grid system" commercially available? If so, how might adoption of today's smart grid technology affect adoption of future technology refinements?**

The technologies for a minimum "qualified smart grid system" are commercially available today. Many of these systems may not be compatible with the standards to be developed as required in Section 1305 of EISA 2007. This incompatibility will limit the future benefits and possibly lead to the technical obsolescence of any system adopted today.

3) **The IRP rule currently requires the lowest reasonable cost set of resources to be determined after a "detailed and consistent analysis of a wide range of commercially available sources." Does this requirement already encompass "qualified smart grid systems?"**

It does in the context that conservation and demand response programs made available through smart grid technologies are considered a "generation resource."

4) **What level of screening and analysis of smart grid investment would constitute a demonstration to the Commission?**

A standard business case analysis of a smart grid investment, including revenue requirement, should constitute the applicable demonstration requirement.

5) **Are the six factors listed an adequate set for reviewing smart grid investments? Should additional factors be included? If so, what additional factors? What, if any, rules should govern measurement and evaluation of these listed or additional factors?**

PacifiCorp believes the six factors are adequate for the review of smart grid investments. No additional factors are necessary.

Part B

EISA Section 1307(a)(16)(B) states that "Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system." The Notice states that "pursuant to statute and case law, the Commission allows for the recovery of all prudently incurred costs and capital investment including an opportunity to earn a reasonable rate of return." Thus, the Commission has already developed policies on this issue in accordance with PURPA. Nevertheless, the Commission encourages commenters to offer comments on whether further policies are necessary.

Rate structures will be needed that place more of the recovery of fixed costs in fixed charges in order to give utilities a reasonable opportunity to recover the costs of smart grid investments. Smart grid and other energy management systems, when fully implemented, are expected to increase utilization of generation, transmission and distribution assets while reducing peak demand and the overall consumption of electric energy. Current rate structures that place the recovery of fixed costs in usage charges are at odds with smart grid benefits since they will require utilities to encourage energy usage in order to recover the costs of smart grid systems. Rate structures that are less dependent on increased usage will help to assure that smart grid benefits are delivered, they will reduce revenue volatility, and they should provide utilities with the opportunity to recovery the costs of these systems.

Part C

EISA Section 1307(a)(16)(C) states that "Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment." The Notice indicates that the Commission will consider its prudence standard as applied in adjudicated proceedings, its existing policies as established by rule, and the purposes of PURPA to encourage conservation of energy supplied by electric utilities, optimal efficiency of electric utility facilities and resources, and equitable rates for electric consumers in considering the implementation of this standard. In response to the questions posed by the Commission in Section 1.C, part C, the Company presents the following:

1) What constitutes a "qualified smart grid system?

A "qualified smart grid system" must have the minimum functions. These functions may be used to define a "minimal" system.

- The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, or other relevant information to or from or by means of the electric utility system, through one or a combination of devices and technologies,
- The ability to measure or monitor electricity use as a function of time of day, power quality characteristics such as voltage level, current, or cycles per second and report that information by digital means,
- The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, or other relevant information to or from a computer or other control device,
- The ability to detect, prevent, communicate with regard to, respond to, or recover from system security threats, including cyber-security threats and terrorism, using digital information, media, and devices.

Furthermore, a "qualified smart grid system" must be upgradeable to perform the following functions without significant changes to the existing infrastructure:

- The ability to sense and localize disruptions or changes in power flows on the grid and communicate such information instantaneously and automatically for purposes of enabling automatic protective responses to sustain reliability and security of grid operations,
- The ability of any appliance or machine to respond to such signals, measurements, or communications automatically or in a manner programmed by its owner or operator without independent human intervention,
- The ability to use digital information to operate functionalities on the electric utility grid that were previously electro-mechanical or manual,
- The ability to use digital controls to manage and modify electricity demand, enable congestion management, assist in voltage control, provide operating reserves, and provide frequency regulation.

2) **Is there a distinction between replacing existing equipment with a "system" versus the replacement of some existing equipment with individual components?**

The "minimal" smart grid system as defined above does differentiate itself from replacing existing equipment with a "system" that would include all of the functions. The installation of a "minimal" system will establish the necessary infrastructure required for the replacement of individual components as technologies and standards develop to enable a "complete" smart grid system.

3) **Are the technologies that constitute a "qualified smart grid system" commercially available? If so, how might adoption of today's smart grid technology affect adoption of future technology refinements?**

The technologies for a minimum "qualified smart grid system" are commercially available today. Many of these systems may not be compatible with the standards to be developed as required in Section 1305 of EISA 2007. This incompatibility will limit the future benefits and possibly lead to the technical obsolescence of any system adopted today.

4) What constitutes "obsolete equipment"?

Any removed equipment that does not have a secondary market that allows for the recovery of the remaining book value of the asset should be considered obsolete. Furthermore, any asset that is recognized by the industry as being technically obsolete (i.e. electromechanical meters) should be considered obsolete.

5) Should a cost effectiveness test be applied to the equipment replacement before recovery of book-value costs are allowed?

PacifiCorp believes that current accounting practices consistent with FERC regulations should continue to be applied with respect to depreciable electric utility equipment rendered obsolete by investment in smart grid technologies. The book costs of obsolete equipment would be retired by crediting the electric plant asset balances in which it is included while the associated accumulated reserve balance is debited to remove these balances from rate base. The net difference (if any) would be debited to the associated accumulated reserve balance. The result of these entries is a net zero impact to rate base. As the retirement entries have a net zero rate base impact, the remaining value of the equipment at the time it was rendered obsolete would then be recovered through depreciation expense as determined by depreciation rates set on remaining assets in the next Commission approved depreciation study. If these retirement transactions eliminate the entire balance of an account, such that there is no balance remaining to depreciate, the remaining book value of the obsolete equipment should be treated as a regulatory asset, recovery for which would be requested in an accounting order filed with the Commission. The Company believes that if the obsolete assets have previously been allowed recovery from Washington customers, the assets have already passed the Commission's existing prudence standards and should be granted recovery through rates without being subject to a cost effectiveness test.

6) How would net salvage value be accounted for under this standard?

Net salvage value would continue to be accounted for as it has in the past, in that it would be credited to the depreciation reserve and factored into the next Commission approved depreciation study.

7) How would this standard conform to used and useful standards?

If the assets which have been rendered obsolete have previously been allowed recovery in rates, the assets have already passed used and useful standards as determined by the Commission. PacifiCorp believes that recovery should be allowed for these assets as they were determined to be prudently incurred at the time of investment. PacifiCorp should be allowed full recovery of assets deemed by the Commission to have been prudently incurred.

Smart Grid Information

EISA Section 1307(a)(17) requires that utilities provide electricity purchases with the information detailed in section (B) of this standard, to the extent practicable, and to provide access to that information as described in section (C). In the Notice, the Commission states that policies and practices either already exist to address the new standards, or may not be practicable. The Notice indicates policies exist that address Standards (B)(i)(II), B(ii), B(iv), and (C). Additionally, the Notice indicates that Standards (B)(i)(I) and B(iii) would not be practical to implement.

The Company agrees with the Commission in its assessment of current policies and practices to address EISA Section 1307(a)(17). No additional policies or practices are necessary to meet this standard.

PacifiCorp appreciates the opportunity to comment on these standards introduced in EISA and looks forward to participating in future discussions regarding these issues. Please direct any questions regarding these comments to Cathie Allen at 503-813-5934.

Sincerely,

Andrea L. Kelly /ca

Andrea L. Kelly
Vice President, Regulation