



Bob Ferguson

ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

1400 S Evergreen Park Drive SW • PO Box 40128 • Olympia WA 98504-0128 • (360) 664-1183

Via Electronic and United States Mail

October 7, 2015

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

RE: *Washington Utilities and Transp. Comm'n v. Pacific Power & Light Co.*
Docket UE-144160

Dear Mr. King:

Enclosed for filing in the above-referenced docket are the original and one copy of the Reply Brief on Behalf of Commission Staff, and Certificate of Service.

Sincerely,

CHRISTOPHER M. CASEY
Assistant Attorney General

CMC:emd
Enclosures
cc: Parties w/enc.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFIC POWER & LIGHT COMPANY, a
division of PacifiCorp,

Respondent.

DOCKET UE-144160

REPLY BRIEF ON BEHALF OF COMMISSION STAFF

October 7, 2015

ROBERT W. FERGUSON
Attorney General

CHRISTOPHER M. CASEY
Assistant Attorney General
Office of the Attorney General
Utilities & Transportation Division
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1189

I. INTRODUCTION

1 Commission Staff's Initial Brief, filed September 11, 2015, anticipated and rebutted
the arguments proposed by Pacific Power & Light Company ("PacifiCorp" or the
"Company"). Therefore, Staff's Reply Brief to PacifiCorp, Boise White Paper, L.L.C.
("Boise"), and the Renewable Energy Coalition ("REC") is necessarily limited.

II. REPLY TO THE COMPANY

2 PacifiCorp characterizes Staff's recommended incremental cost method for
determining the Company's avoided capacity cost as overly simplistic, and thus
inappropriate. PacifiCorp asserts, "When calculating the costs that can be avoided due to the
addition of a QF, it is imperative to account for the utility's current resource procurement
plans and the timing of actual, planned resource additions."¹

3 Staff's proposal accounts for both the utility's current resource procurement plans
and the timing of actual, planned resource additions. Staff's proposal uses the lowest-cost
resource identified in the Company's IRP to reasonably account for the capacity costs that
the Company avoids each year of its planning horizon by purchasing QF power rather than
market power (e.g., front office transactions or "FOTs").²

4 PacifiCorp also accuses Staff of incorrectly assuming all QFs renew their contracts
upon expiration.³ The Company asserts that "it only assumes that certain small QFs are
extended through the end of the planning period while contracts with other QFs will expire
according to their terms."⁴ Staff notes that these "small QFs" are exactly the ones at issue in

¹ *Id.* at ¶ 35.

² WAC 480-109-210(2)(a)(i)(e); Twitchell Decl. ¶ 36.

³ Company Initial Br. at ¶ 28.

⁴ *Id.*; see also PacifiCorp 2015 IRP, Volume 1 at 75.

this case because the Company's Schedule 37 tariff contains standard offer rates available to QFs with a nameplate capacity of 2 megawatts or fewer.⁵ Larger QFs must negotiate avoided cost rates with the Company.⁶ No such QFs currently exist in PacifiCorp's Washington service territory.⁷

III. REPLY TO REC

5 REC recommends that the Commission adopt avoided cost rates that provide capacity payments for both new and existing QFs.⁸ REC further argues, however, that it would be particularly inappropriate to not provide a capacity payment to existing QFs that renew their contracts because PacifiCorp's IRP assumes small existing QFs will renew their contracts with the Company. In support, REC highlights a recent Idaho Public Utilities Commission order that allows for existing QFs renewing their contracts to receive capacity payments for the full term of their extension or renewal even if the utility is in a resource "sufficient" position in which newly developed QFs do not receive any capacity payments.⁹

6 In Staff's view, the approach adopted by the Idaho Public Utilities Commission may be unlawful. FERC rules mandate that rates for purchase shall not discriminate against QFs; however, rates may differentiate based on the unique operating characteristics of particular QFs.¹⁰ FERC rules also explicitly define "new capacity" as any purchase from capacity of a QF constructed on or after November 9, 1978.¹¹ While Staff acknowledges that PacifiCorp's assumption in its IRP that certain small QFs are extended through the end of the planning

⁵ Company Initial Br. at ¶ 1.

⁶ Twitchell Decl. ¶ 39.

⁷ Unopposed Joint Motion to Admit Evidence, Exhibit 1: Redacted list of qualifying facilities on PacifiCorp's system (May 7, 2015).

⁸ REC Initial Br. at ¶ 41.

⁹ *Id.* at ¶¶ 35-41.

¹⁰ 18 CFR § 292.304(a)(ii), .304(e).


¹¹ 18 CFR § 292.304(b)(i).

period may provide a basis to differentiate rates for QFs entering into their first power purchase agreements from QFs renewing or extending their agreements with the Company, Staff's understands FERC's rules to intend that these two groups of QFs be treated the same so long as they were constructed on or after November 9, 1978: Both newly developed QFs entering into their first agreements and existing QFs renewing or extending their agreements are entitled to the same just and reasonable, non-discriminatory, rates that equal the Company's full avoided cost.

Dated this 7th day of October, 2015.

Respectfully submitted,

ROBERT W. FERGUSON
Attorney General



CHRISTOPHER M. CASEY
Assistant Attorney General
Counsel for Washington Utilities and
Transportation Commission Staff

Docket UE-144160
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the attached Reply Brief on Behalf of Commission Staff upon the persons and entities listed on the Service List below via electronic and United States mail, addressed as shown below, with first class postage prepaid.

DATED at Olympia, Washington this 7th day of October, 2015.



ELIZABETH M. DeMARCO

For Pacific Power & Light Co.:

Dustin Till
Senior Counsel
Pacific Power & Light Co.
825 NE Multnomah, Suite 1800
Portland, OR 97232
Phone: (503) 813-6589
Email: dustin.till@pacificorp.com
Bryce.dalley@pacificorp.com

For Renewable Energy Coalition:

Irion Sanger
Sanger Law, P.C.
1117 SE 53rd Ave.
Portland, OR 97215
Phone: (503) 756-7533
Email: irion@sanger-law.com
jravenesanmarcos@yahoo.com

For Boise White Paper:

Tyler C. Pepple
Davison Van Cleve, P.C.
333 SW Taylor, Suite 400
Portland, OR 97204
Phone: (503) 241-7242
Email: tcp@dvclaw.com
mjd@dvclaw.com