



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

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***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

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

RE: Docket UE-144160—Pacific Power & Light Company's Reply Brief

Pacific Power & Light Company, a division of PacifiCorp (PacifiCorp or Company), submits for filing its reply brief in this proceeding.

If you have any informal inquiries regarding this matter, please contact Ariel Son, Manager, Regulatory Projects, at (503) 813-5410.

Sincerely,

R. Bryce Dalley /AS
R. Bryce Dalley
Vice President, Regulation

Enclosures

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFIC POWER & LIGHT COMPANY,

Respondent.

DOCKET UE-144160

PACIFIC POWER & LIGHT COMPANY'S REPLY BRIEF

October 7, 2015

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I. INTRODUCTION

1 Pacific Power & Light Company, a division of PacifiCorp (PacifiCorp or
Company), files this reply brief in response to the initial briefs filed by Commission staff
(Staff) and the Renewable Energy Coalition (REC).¹

2 As noted in PacifiCorp’s Initial Brief, the Company’s proposed Schedule 37
proposes to eliminate payments for capacity based on the costs of a simple cycle
combustion turbine (SCCT). This change is consistent with the resource sufficiency
period identified in the Company’s 2013 Integrated Resource Plan (IRP) Update.² This
proposed change would allow Schedule 37 to accurately reflect the Company’s avoided
cost and maintain the ratepayer indifference objective mandated by the Public Utility
Regulatory Policies Act of 1978 (PURPA).

3 PacifiCorp will not revisit all of the issues raised in its Initial Brief, but will
simply reply to specific arguments made by Staff and REC.

II. DISCUSSION

A. Costs Paid to a QF Should Reflect a Utility’s Avoided Cost, Nothing More.

4 PURPA requires a utility to purchase a QF’s energy and capacity at rates equal to
the utility’s avoided cost. “Avoided cost” is defined as “the incremental cost to the
electric utility of electric energy or capacity or both, which but for the purchase from the
QF or QFs, such utility would generate itself or purchase from another source.” 18 C.F.R.
§ 292.101(b)(6). PacifiCorp and other parties do not appear to disagree about this
fundamental definition, but Staff and REC, while defining avoided cost correctly, would
err in its implementation by setting PacifiCorp’s avoided cost *above* the cost of energy

¹ Boise White Paper, LLC also filed an initial brief disagreeing with Staff’s recommendation to include separate SCCT costs in PacifiCorp’s avoided cost.

² Declaration of Brian S. Dickman (“Dickman Dec.”) at ¶ 4 (June 12, 2015).

and capacity that, “but for” QF purchases, PacifiCorp would generate itself or purchase from another source. Their recommendations should be rejected, as the methodology used to calculate avoided costs may not be structured or designed in a way that yields an avoided cost higher than the “but-for” inquiry would yield.³ Nevertheless, Staff and REC recommend increasing PacifiCorp’s proposed avoided cost for any number of reasons that are unrelated to the statutory definition.

5 A key driver for Staff’s and REC’s recommendations seems to be a focus on the level of QF development in Washington. Staff and REC suggest that the Commission should increase PacifiCorp’s avoided cost simply to increase the number of PURPA contracts in the state. This suggestion, if adopted, would directly contradict PURPA. Some lower level of QF development in Washington compared to specific other states does not mean that PacifiCorp’s avoided cost is too low. PURPA requires states to set avoided cost at the price a utility would incur for energy and capacity *but for* QF purchases, not at a level that ensures there are an equal number of QFs in every state. FERC has stepped in to make this clear: a state may not increase a utility’s measure of avoided cost above the “but-for” measure simply to encourage QF development.⁴ Avoided costs must be based on the statutory measure, nothing more.

³ See, e.g., *Southern Cal. Edison Co., et al.*, 71 FERC ¶ 61,269 at 62,080 (1995) (“*So. Cal. Edison*”) *overruled on other grounds*, *Cal. Pub. Util. Comm’n*, 133 FERC ¶ 61,059 (2010) (overturning avoided cost methodology proposed by California Public Utilities Commission because the methodology itself would result in payments to QFs that exceed avoided cost). Staff repeatedly states that PURPA requires a utility to pay a QF the utility’s “full” avoided cost. PacifiCorp does not disagree with Staff under the circumstances present here, but believes it is more accurate to state that PacifiCorp is required to set avoided cost at the Company’s best estimate of its *actual* avoided cost. PacifiCorp’s arguments in this brief are based on this standard. PacifiCorp would also note for the sake of completeness on this point that in certain circumstances, a state commission may (consistent with PURPA) set a rate for purchase of QF power that is *less* than a utility’s avoided cost. See, e.g., 18 C.F.R. § 292.304(b)(3). It may not, however, set a rate for purchase of power that is *more* than a utility’s avoided cost. See, e.g., 18 C.F.R. § 292.304(a)(ii)(2).

⁴ *Id.*

6 There are any number of varied and appropriate reasons a QF may choose to seek a PURPA contract in one state versus another. As the Commission has recognized, some states may rely heavily on PURPA to incentivize renewable generation and use specific PPA terms and conditions to do so, while other states may rely more heavily on alternative state methods for encouraging the development of renewable energy, such as renewable portfolio standards, tax incentives, or other incentives or mandates, while still complying with PURPA.⁵ Inflating avoided cost based on an apparent state-by-state comparability policy principle, rather than the cost of a utility’s avoided resources, is simply improper.

B. Cost Projections Are an Appropriate Source of Avoided Costs.

7 Staff argues that PacifiCorp’s proposed avoided cost, which is based on the projected cost of energy and capacity the Company would incur but for QFs, should be increased simply because those future costs are not known with certainty. For example, Staff argues that “PacifiCorp conflates two distinct concepts: its projection regarding the cost of FOTs and the cost that the Company will ‘actually incur’” when developing its avoided cost. In other words, Staff seems to suggest that PacifiCorp’s proposed avoided cost is wrong simply because it is based on projections. Staff argues that a “market risk adder” of some sort should be added to PacifiCorp’s proposed avoided cost to

⁵ WUTC Docket No. UE 130043, Order No. 5 at ¶ 102 (Dec. 4, 2013) (“In implementing state policies such as providing incentives for the development of renewable energy states may, for example, increase the maximum amount of power that must be purchased under a QF contract and also set the avoided cost at a higher level. Other states may elect to implement such policies by other means, placing less emphasis on PURPA and relying more on approaches such as establishing enforceable renewable portfolio standards.”). *See, also e.g., So. Cal. Edison*, 71 FERC ¶ 61,269, 62,079-62,080. Washington, for example, encourages renewable generation through a number of state incentives, including the Washington Energy Independence Act and renewable portfolio standards, net metering, and various tax and production incentives.

compensate for this uncertainty.⁶ REC makes similar comments, arguing that the Commission should not “put any credence” on the Company’s IRP projections and should increase PacifiCorp’s proposed avoided cost because REC believes the Company’s resource projections will turn out to be inaccurate.⁷

8 Staff’s and REC’s proposals to increase avoided cost simply because PacifiCorp’s projections may turn out to be inaccurate are out-of-step with PURPA and common practice. Avoided costs are routinely based on future projections of market costs—necessarily so, since PURPA requires a utility to provide a QF with the utility’s projection of avoided cost over the life of the contract.⁸ The fact that avoided cost is based on projections is a normal feature of avoided cost, and Staff’s and REC’s one-sided adjustments should be rejected.

9 So long as a QF is selling power under a contract with a fixed avoided-cost price, that avoided cost price is *always* based on future projections. FERC recognized this when adopting its avoided cost regulations, and predicted that, “in the long run, ‘overestimations’ and ‘underestimations’ of avoided costs would balance out.”⁹ While the Generation and Regulation Initiative Decision Tools (GRID) model is not, as Staff

⁶ Staff argues that PacifiCorp’s reliance on FOTs for its measure of avoided cost is too low because it does not account for “the risk that PacifiCorp will not be able to purchase the amount of power it needs at the price it predicts.” Staff Initial Brief at 2. In some places Staff suggests that the addition of a separate capacity cost is intended to reflect the “market risk” associated with PacifiCorp’s planned FOTs; in other places, Staff suggests a separate “adder” unrelated to a SCCT should be added to PacifiCorp’s avoided cost to reflect market risk. Staff states, Staff states, “The Company’s projection of the market price. . . fails to ‘reasonably account’ for the capacity costs that it avoids by purchasing QF power because it does not account for market risk” Staff Initial Brief at 10.

⁷ REC Initial Brief at 11.

⁸ See, e.g., 18 C.F.R. § 292.304(b)(5) (“In the case in which the rates for purchases are based on estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for such purchases do not violate this subpart if the rates for such purchases differ from avoided costs at the time of delivery.”).

⁹ Order No. 69, *Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Pub. Util. Regulatory Policies Act of 1978*, 45 Fed. Reg. 12,214, 12,224 (1980) (“Order No. 69”).

suggests, a “magic crystal ball,” it is the Company’s most accurate tool for projecting its costs of power and the most accurate tool for determining avoided cost under PURPA. Inflating the Company’s calculation of avoided cost by some arbitrary amount simply because PacifiCorp does not have a real crystal ball is an unfairly one-sided and factually unsupported recommendation. The best estimate of the Company’s avoided cost is one based on the best projections available, and the Company’s GRID model and its IRP have long been recognized as the best tools for developing such projections.

C. The Avoided Cost of Front Office Transactions (FOTs) is the Appropriate Measure of PacifiCorp’s Avoided Cost under PURPA.

10 As PacifiCorp explained in its testimony and Initial Brief, the Company relies on FOTs to balance the Company’s capacity needs during certain time periods.¹⁰ These short-term firm market purchases help PacifiCorp meet its firm obligations to serve load and ensure it has sufficient capacity to maintain reliability at a reasonable cost. When the Company is relying on FOTs to meet its energy and capacity needs, paying a QF for the avoided cost of FOTs is the equivalent of paying a QF the costs the Company would incur to purchase energy and capacity “but for” the addition of a QF. In other words, it is the Company’s avoided cost.

11 As PacifiCorp noted in its Initial Brief, FERC actually anticipated a scenario like this one—one in which a utility would rely for a time on firm market purchases to meet its energy and capacity needs. FERC noted that, in this scenario, the utility’s avoided cost should be the avoided cost of the firm market purchases. As FERC explained:

A utility’s generation expansion plans often include purchases of firm power from other utilities in years immediately preceding the addition of a major generation unit. If a qualifying facility contracts to deliver power, for example, for a one year period, it may enable the purchasing utility to

¹⁰ Dickman Dec. at ¶ 11.

avoid entering into a bulk power purchase arrangement with another utility. *The rate for such a purchase should thus be based on the price at which such power is purchased, or can be expected to be purchased, based upon bona fide offers from another utility.*¹¹

12 Staff disagrees with PacifiCorp's interpretation of this excerpt, arguing that FERC allows a utility to set avoided cost based on market purchases only when the utility has a "bona fide offer" from another utility.¹² Nothing in Order No. 69 suggests this is true.

13 The excerpt above is taken from a portion of Order No. 69 that discusses how a utility should value capacity for purposes of avoided cost calculations. It is not part of a "market risk" analysis, nor does it have anything to do with the certainty or uncertainty of the transactions under discussion. The point of the discussion was to determine what *types* of avoided purchases would adequately compensate a QF for capacity. In the situation where a utility relies on firm market purchases to meet its energy and capacity needs rather than building new resources, the correct measure of avoided cost is the cost of the avoided market purchases.¹³

14 More importantly, Staff's assertion is inherently contradictory. According to Staff, it would theoretically be appropriate for PacifiCorp to say that the price of a seller's capacity is embedded in the price of a market transaction, but only if the Company had *"already contracted for the firm delivery of bulk power to meet system demand, and thus knew, with legal certainty, the cost of the market transactions that QFs enable it to avoid."*¹⁴ Staff's paradoxical interpretation would require that the Company first legally

¹¹ Order No. 69 at 12,226 (1980).

¹² Staff Initial Brief at 12.

¹³ Order No. 69 was issued in February of 1980, before the rise of competitive wholesale markets. Parties engaged primarily in bilateral contracting at the time, rather than transacting at market hubs, so expectations of "bona fide" bilateral offers reflected utility practice at the time. But FERC's point is still the same: if a utility relies on market purchases to meet its energy and capacity needs, the avoided cost of those purchases is the utility's avoided cost.

¹⁴ Staff Initial Brief at 12. (emphasis added).

bind itself to purchase capacity from a third-party seller so that it may discover the price to pay a QF for that same capacity. Once legally bound to purchase that capacity, separate purchases from a QF will not enable the Company to avoid the capacity purchase or its accompanying costs. Basing avoided cost on a projection of future power costs is a normal and necessary feature of avoided cost when determining the price paid to a QF selling power under a contract with a fixed avoided-cost price.

D. PacifiCorp’s Testimony from Its 2014 Rate Case Is Consistent with Its Testimony in This Docket.

15 Staff suggests in its Initial Brief that PacifiCorp’s testimony in this docket contradicts its testimony in the Company’s 2014 general rate case. Specifically, Staff states that PacifiCorp argued in the 2014 general rate case that relying on market purchases for avoided cost “fails to account for the impact of a QF on the Company’s existing resources or the QF’s ability to defer future capacity additions.”¹⁵ Staff has taken PacifiCorp’s statement out of context.

16 At issue in the 2014 rate case was Staff’s and another party’s proposal to exclude the cost of Oregon and California QF PPAs from Washington rates and to re-price those PPAs at market prices using GRID.¹⁶ The problem was that these PPAs had *already been signed* by the Company, some of them years before, when different market conditions and different resource positions prevailed. PacifiCorp’s fundamental problem with Staff’s proposed approach was that it eviscerated the avoided cost decisions made at the time the PPAs were executed (and the Company’s contractual obligations therein, which

¹⁵ Staff Initial Brief at 14 (citing *Wash. Utils & Transp. Comm’n v. Pacific Power & Light Co.*, Docket UE-140762, Rebuttal Testimony of Gregory N. Duvall, Exh. No. GND-4T, at 14:19 - 19:26 (Nov. 14, 2014) (“Duvall Rebuttal Testimony”)).

¹⁶ See Duvall Rebuttal Testimony at 14:5-7. Staff appeared in the 2014 rate case to approve of GRID’s use as an analytical tool to determine avoided cost pricing.

remained ongoing), and proposed simply to replace those costs at market rates with no consideration for the costs properly taken into account at the time the PPAs were executed. To take those PPAs, some of which *may have properly included separate capacity payments* based on the appropriate avoided cost analysis at the time, and to re-price them at market prices, would not necessarily reflect the avoided cost calculated at the time those PPAs were executed.

17 This is very different from the situation at hand, where PacifiCorp has conducted an analysis in its IRP and determined that *at this time*, the avoided cost of energy and capacity is the avoided cost of FOTs.

E. The Renewable Portfolio Standard (RPS) Incremental Cost Method, While Useful for RPS Purposes, Is Inappropriate for Calculating Avoided Cost.

18 Staff and REC argue that the Company should use Washington’s method for calculating incremental costs in the context of RPS reporting to calculate avoided cost. As PacifiCorp explained in its Initial Brief, this methodology does not comport with the factors utilized to determine avoided costs under PURPA. The determination of avoided cost under PURPA must be determined in light of the individual factors affecting each utility’s own procurement plans. The RPS incremental cost calculation compares the cost of an RPS eligible resource to a non-eligible resource (*i.e.*, a CCCT) available at the time of the eligible resource’s acquisition, but the incremental cost calculation is simplified (and goes fundamentally awry for purposes of avoided cost calculations) in that it compares an eligible resource to a CCCT assumed to be procured at the same time and in the same size increment as the eligible resource, whether or not the utility *would actually have procured* a CCCT in the absence of the eligible resource. In other words, the RPS method has nothing to do with an individual utility’s actual avoided cost.

F. Other Issues.

19 Staff and REC raised additional recommendations in their briefs that PacifiCorp addressed fully in its Initial Brief and will not revisit here. For example, the Company's Initial Brief addresses the inappropriateness of increasing avoided cost to reflect possible environmental cost upgrades, the relevance of the Company's sufficiency/deficiency demarcation, and the inappropriateness of including capacity payments over 12 months when the Company needs (and purchases) FOTs only during certain time periods. PacifiCorp would refer the Commission to the Company's Initial Brief rather than reiterating the same points here.

III. CONCLUSION

20 To meet the objective of ratepayer indifference, deferred capacity costs must be included in avoided costs in a manner consistent with the Company's resource procurement plans identified in its IRP. Artificially increasing avoided cost prices by including fixed costs of new generators that will not be acquired until at least 2027, or by increasing avoided cost pricing in any manner lacks foundation in PURPA's statutory standard, overstates the costs that the Company will avoid and ultimately results in higher costs passed on to the Company's Washington retail customers.

Respectfully submitted this 7th day of October, 2015,


Dustin T. Till
Attorney for PacifiCorp

CERTIFICATE OF SERVICE

I hereby certify that I have this day served this document upon all parties of record in this proceeding by electronic mail.

**Washington Utilities & Transportation
Commission**

Chris Casey
1400 S. Evergreen Park Drive S.W.
Olympia WA 98504-0128
ccasey@utc.wa.gov

Boise White Paper, L.L.C.

Melinda Davison
Tyler C. Pepple
Davison Van Cleve, P.C.
333 S.W. Taylor, Suite 400
Portland, OR 97204
mjd@dvclaw.com ; tcp@dvclaw.com

PacifiCorp

Dustin Till
Senior Counsel
825 NE Multnomah, Suite 1800
Portland, OR 97232
dustin.till@pacificorp.com

PacifiCorp

R. Bryce Dalley
Vice President, Regulation
825 NE Multnomah, Suite 2000
Portland, OR 97232
bryce.dalley@pacificorp.com

Renewable Energy Coalition

John Lowe
12050 SW Tremont Street
Portland, OR 97225
jravenesanmarcos@yahoo.com

Renewable Energy Coalition

Irion Sanger
Sanger Law, P.C.
1117 SE 53rd Ave
Portland, OR 97215
irion@sanger-law.com

DATED at Portland, OR this 7th day of October 2015.



Amy Eissler
Coordinator, Regulatory Operations