



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

December 13, 2012

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

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

Attention: David W. Danner
Executive Director and Secretary

RE: UE-100749 Motion to Amend Order 06

Dear Mr. Danner:

PacifiCorp d/b/a Pacific Power & Light Company submits for filing the following Motion to Amend Order 06.

If you have any questions, please contact Bryce Dalley, Director Regulatory Affairs and Revenue Requirement, (503) 813-6389.

Sincerely,

William R. Griffith
Vice President, Regulation

Enclosure

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

Complainant,

vs.

PACIFICORP d/b/a PACIFIC POWER &
LIGHT COMPANY,

Respondent.

DOCKET UE-100749

MOTION TO AMEND ORDER 06

I. RELIEF REQUESTED

1. In accordance with RCW 80.04.210, WAC 480-07-875, and WAC 480-07-375, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or the Company) moves the Washington Utilities and Transportation Commission (Commission) for an order amending Order 06 issued in this proceeding on March 25, 2011.
2. In the last two months, PacifiCorp has made several filings intended to accomplish the same goal: to mitigate a potential surcharge to customers to recoup the rate credits currently flowing to customers through Schedule 95 (the Renewable Energy Revenue Adjustment) for the proceeds from the sale of renewable energy credits (REC revenues) from April 3, 2011, to the present. Schedule 95 was filed in compliance with Order 06 in this docket and is a mechanism established to credit to customers a forecast amount of REC revenues, subject to later true-up to actual amounts.¹
3. Under RCW 80.04.210 and WAC 480-07-875(1), the Commission may amend an order at any time, upon notice to the public service company affected and to all parties in the

¹ *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Docket UE-100749, Order 06 ¶205 (March 25, 2011).

underlying proceeding, and after opportunity to be heard. Through Schedule 95, the Company estimates that it has credited \$2.6 million more in REC revenues for the period from April 3, 2011, through December 2012, than the Company actually received in REC revenues during the same period.² Without modification, Schedule 95 will continue to credit REC revenues to customers based on the forecast amount set in Order 06, which would result in the Company continuing to over-credit REC revenues to customers. The Company therefore requests that the Commission amend Order 06 as necessary to end the over-crediting to customers and approve revisions to Schedule 95, attached as Exhibit 1 to this motion, effective immediately.

4. The Company also requests that the Commission amend Order 06 to clarify that the bill credit established in paragraphs 204 through 206 of that order pertains only to REC revenues accrued after the April 3, 2011 rate effective date and does not address REC revenues accrued between January 1, 2009 and April 2, 2011. This is consistent with paragraph 38 of Order 11, clarifying that Order 10 required the Company to develop a new mechanism to address historical REC revenues.³

5. Finally, the Company asks the Commission for an accounting order allowing the Company to defer any REC revenues credited to customers under Schedule 95 in excess of the REC revenues actually owed to customers for the period from April 3, 2011, to the present. PacifiCorp separately petitioned for such an accounting order in Docket UE-121839; if the Commission grants this motion, PacifiCorp will withdraw the separate petition for an accounting order.

² This amount is calculated assuming the existing credit in Schedule 95 remained in effect through November 30, 2012.

³ *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Docket UE-100749, Order 11 ¶38 (Nov. 30, 2012) (Order 11).

II. STATEMENT OF FACTS

6. In Order 06 in Docket UE-100749, the Commission ordered the Company to implement a rate credit for REC revenues.⁴ The initial REC revenue rate credit was estimated at \$4.8 million per year. The Commission authorized a true-up of these initial credits to “be reconciled as credits are paid during the following 12 months.”⁵ In compliance with the Commission’s order, the Company began crediting customers REC revenues on April 3, 2011, under Schedule 95.⁶ Since that time, the Company has credited approximately \$7.0 million in REC revenues to customers.⁷
7. In Order 06, the Commission opened Phase 2 of the docket to address the rate treatment of REC revenues received by the Company between January 1, 2009, and April 2, 2011.⁸ On August 23, 2012, the Commission issued Order 10 in Phase 2 of Docket UE-100749. Order 10 required the Company to credit customers REC revenues booked on or after January 1, 2009, less the amount already included in rates by virtue of a 2009 rate case settlement.⁹ Order 10 also required parties to file an agreed-upon mechanism for crediting historical and future REC proceeds to customers, or individual proposals with supporting documentation, within 90 days of the order.¹⁰
8. On September 4, 2012, the Company filed petitions for reconsideration and stay of Order 10. The Company challenged the Commission’s decision ordering a rate credit for REC revenues pre-dating April 3, 2011, and sought to stay the Company’s compliance

⁴ Order 06, ¶ 204.

⁵ *Id.* ¶ 205.

⁶ *See id.* ¶ 204.

⁷ The approximate per-month credit has been \$0.4 million, which has been credited for the past 18 months under Schedule 95.

⁸ *Id.* ¶ 207.

⁹ *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-100749, Order 10 ¶ 74 (August 23, 2012).

¹⁰ Order 10 ¶ 75.

obligations connected to the challenged aspects of Order 10.¹¹ The Commission granted the Company's September 14, 2012 request to suspend the compliance deadlines in Order 10 in a September 17, 2012 notice.¹²

9. In its Reply brief, the Company clarified that its request for stay pertained only to implementation of a rate credit for REC revenues pre-dating April 3, 2011.¹³ The Company indicated that it would make a compliance filing with an accounting of REC proceeds credited to date under Schedule 95, REC revenues accrued after April 3, 2011, and proposals for necessary revisions to Schedule 95.¹⁴

10. The Company made this compliance filing on October 31, 2012.¹⁵ The Company's filing explained that the estimated net excess distribution of REC revenues to customers from April 3, 2011, through December 2012, was approximately \$2.6 million.¹⁶ The Company therefore proposed to revise the applicable Schedule 95 rates for all rate schedules receiving the credits to zero cents per kWh.¹⁷ The Company proposed making a filing on May 1, 2013, showing the actual REC revenues for calendar year 2012 and revising Schedule 95 as necessary to account for 2012 REC revenues.¹⁸ The Company's compliance filing was intended to be consistent with paragraph 58 of Order 10, which stated that "the credits received by customers should be for the actual REC sales proceeds, rather than forecasted amounts with a true-up" and found that "basing credits on actual sales amounts eliminates

¹¹ *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Docket UE-100749, Petition for Stay ¶ 5 (Sept. 4, 2012).

¹² *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Docket UE-100749, Notice Temporarily Suspending Compliance Deadlines (Sept. 17, 2012).

¹³ *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Docket UE-100749, PacifiCorp's Reply to Answers to Petition for Reconsideration, Petition for Stay, and Motion to Reopen Record ¶ 29 (Oct. 10, 2012).

¹⁴ *Id.*

¹⁵ *Wash. Utils. & Transp. Comm'n v. PacifiCorp*, Docket UE-100749, Compliance Filing and Advice 12-07 (Oct. 31, 2012).

¹⁶ *Id.* at 4.

¹⁷ *Id.*

¹⁸ *Id.*

undue complexity, the opportunity for disputes over the accuracy of Company forecasts, and customer confusion with swings in the credit amount.”

11. On November 16, 2012, the Commission issued a Notice Clarifying Temporary Suspension of Compliance with Order 10.¹⁹ The Commission explained that while its September 17 notice stated that it was suspending the compliance deadlines, the Commission’s intent was to suspend the compliance requirements, not just the deadlines for compliance.²⁰ The Commission stated that the current mechanism for crediting REC revenues that was established in Order 06 remains in effect.²¹
12. On November 19, the Company filed a Petition for an Accounting Order, seeking to defer any REC revenues credited to customers under Schedule 95 in excess of the REC revenues actually owed to customers for the period from April 3, 2011, through the present.²² This Petition was docketed as UE-121839.
13. On November 30, 2012, the Commission issued Order 11 denying the Company’s petition for reconsideration, motion to reopen record, and petition for stay.²³ In paragraph 38 of Order 11, the Commission stated that it denied the Company’s petition for stay because the Commission had not yet determined when to implement the crediting mechanism for

¹⁹ *Wash. Utils. & Transp. Comm’n v. PacifiCorp*, Docket UE-100749, Notice Clarifying Temporary Suspension of Compliance with Order 10 (Nov. 16, 2012).

²⁰ *Id.*

²¹ *Id.*

²² The Commission’s REC tracking mechanism adopted in Order 06 allowed for a true-up of REC revenue credits paid to actual REC revenue credits owed. Through operation of this balancing account, PacifiCorp expects that it will be permitted to recover REC revenues over-credited to customers. The Commission has not, however, confirmed that the current REC tracking mechanism will operate to allow PacifiCorp to recover over-credited REC revenues, and retroactive ratemaking principles could bar recovery. To address these risks, PacifiCorp’s petition for an accounting order sought: (1) confirmation that the balancing account feature of the current REC tracking mechanism will operate symmetrically to protect customers from under-crediting of REC revenues and protect the Company from over-crediting of REC revenues; and (2) approval of deferred accounting to ensure that the Commission will have the authority to order surcharges to customers for REC revenue rate credits previously ordered if the Commission ultimately determines that PacifiCorp has credited customers for REC revenues in excess of those owed to customers.

²³ Order 11 ¶¶ 39-40.

historical REC revenues.²⁴ The Commission stated that the Company will not suffer any harm in complying with Order 10's requirement to develop a crediting mechanism, because "[e]ven if the Commission determines not to require the Company to implement credits of historic REC sale proceeds until the conclusion of any judicial review," having a crediting mechanism in place will minimize the delay in crediting RECs if the Commission's order is upheld on appeal.²⁵

14. On December 4, 2012, the Company filed Advice 12-09 relating to Schedule 95.²⁶ In this advice filing, the Company again proposed revising Schedule 95 rates equal to zero cents per kWh for all rate schedules, effective December 14, 2012.²⁷

15. On December 11, 2012, Administrative Law Judge Gregory J. Kopta advised PacifiCorp by telephone that Advice 12-09 would be rejected by the Commission for procedural reasons and advised PacifiCorp to file proposed changes to Schedule 95 in a motion to amend Order 06, rather than as a separate advice filing. The Company withdrew Advice 12-09 by letter filed December 12, 2012, and is resubmitting its revised Schedule 95 as an exhibit to this motion.

III. ARGUMENT

16. The Company requests that the Commission approve the attached revisions to Schedule 95, which would establish rates equal to zero cents per kWh, effective immediately. Without these revisions, the Company will add to the \$2.6 million in over-credits for non-historical REC revenues that it has already credited. Rather than potentially subject customers to rate surcharges in the future to balance out the REC tracker, the Company

²⁴ *Id.* ¶ 38.

²⁵ *Id.*

²⁶ Advice 12-09 (Dec. 4, 2012).

²⁷ *Id.*

proposes stopping the credit until the amounts of historical REC revenues have been determined. The Company also requests that it be allowed to defer any credits for REC revenues in excess of those actually owed to customers for the period between April 3, 2011, and the date that the proposed revisions to Schedule 95 become effective.

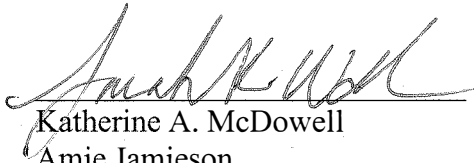
17. In addition, in Paragraph 38 of Order 11, the Commission stated that historical REC revenues should not yet be returned to customers though the bill credit established in Order 06. Order 06 is not clear on this point, and without revisions, Schedule 95 could undermine this objective. The Company requests that the Commission amend Order 06 to state that historical REC revenues are outside the scope of current Schedule 95, and that rate credits for historical REC revenues will be addressed following final resolution of PacifiCorp's petition for judicial review of Orders 10 and 11.

IV. CONCLUSION

18. The Company respectfully requests that the Commission (1) approve the revisions to Schedule 95, attached as Exhibit 1, so that rates under that schedule will equal zero cents per kWh for all rate schedules effective immediately; (2) amend Order 06 to be consistent with paragraph 38 of Order 11 and clarify that the REC revenue bill credit established in that order does not pertain to historical REC proceeds, meaning those received from January 1, 2009, through April 2, 2011; and (3) allow deferred accounting for any credits for REC revenues in excess of those actually owed to customers for the period from April 3, 2011, through the date that the proposed revisions to Schedule 95 become effective.

DATED: December 13, 2012.

Respectfully Submitted,



Katherine A. McDowell

Amie Jamieson

McDowell Rackner & Gibson PC

419 SW 11th Ave., Suite 400

Portland, OR 97205

Telephone: (503) 595-3924

Facsimile: (503) 595-3928

Email: katherine@mcd-law.com

Sarah K. Wallace

Senior Counsel

Pacific Power

825 NE Multnomah St. Ste. 1800

Portland, OR 97232

Phone: (503) 813-5865

Attorneys for PacifiCorp

CERTIFICATE OF SERVICE

I certify that I have cause to be served the foregoing document, via E-mail, to the following:

Industrial Customers of Northwest Utilities

Irion Sanger
Melinda Davison
Davison Van Cleve, P.C.
333 S.W. Taylor, Suite 400
Portland, OR 97204
ias@dvclaw.com
mjd@dvclaw.com

Washington Utilities & Trans. Comm'n

Don Trotter
1400 S. Evergreen Park Drive S.W.
PO Box 40128
Olympia WA 98504
dtrotter@utc.wa.gov

Office of the Attorney General

Simon ffitch
Sarah Shifley
900 4th Avenue – Suite 2000
Seattle WA 98164
Simonf@atg.wa.gov
Sarah.Shifley@atg.wa.gov

PacifiCorp

Katherine McDowell
419 SW 11th Ave, Suite 400
Portland, OR 97205
katherine@mcd-law.com

The Energy Project

Brad Purdy
Attorney at Law
2019 N. 17th Street
Boise, ID 83702
bmpurdy@hotmail.com

PacifiCorp

Sarah Wallace
Legal Counsel
825 NE Multnomah, Suite 1800
Portland, OR 97232
Sarah.Wallace@pacificorp.com

Wal-Mart

Arthur A. Butler
Ater Wynne LLP
601 Union Street, Suite 1501
Seattle, WA 98101
aab@aterwynne.com

PacifiCorp

Andrea Kelly
Vice President, Regulation
825 NE Multnomah, Suite 2000
Portland, OR 97232
Andrea.kelly@pacificorp.com

RCI

Donald Shoenbeck
Regulatory & Cogeneration Services
900 Washington Street, Suite 780
Vancouver, WA 98660-3455
dws@r-c-s-inc.com

DATED this 13th day of December.



Amy Eissler
Coordinator, Regulatory Operations