BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY, Respondent.	DOCKET UE-100749 COMMISSION STAFF RESPONSE TO PACIFICORP'S MOTION TO AMEND ORDER 06

1 In PacifiCorp's "Motion to Amend Order 06", the Company seeks a Commission order granting relief in three parts:

Part 1: PacifiCorp would immediately zero out the Schedule 95 REC credit to ratepayers;

Part 2: The Commission would Amend Order 06 to "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

Part 3: The Commission would authorize PacifiCorp to use deferred accounting for REC revenues in excess of those actually owed to customers for the period from April 3, 2011, through the date that the Company's proposed revisions to Schedule 95 become effective.[1]

[1] Motion at 7, ¶ 18.

2 The main reason the Company offers for all this is that between April 3, 2011, and December 31, 2012, the Schedule 95 credit allegedly will have refunded $2.6 million more than the Company received in REC revenues for that same 21 month period.[2]

3 In fact, the cause of this situation is that the Company has not complied with Order 06. For the reasons stated below, the Commission should deny Part 1 of PacifiCorp's Motion, and insist the Company comply with Order 06; the Commission should grant Part 2 of PacifiCorp's Motion; and the Commission should deny Part 3 of PacifiCorp's Motion as unnecessary.

1. Order 06 Required PacifiCorp to Institute a Series of 12 Month Credits of REC Revenues, Subject to True-up

4 In Order 06, the Commission ordered a transitional mechanism under which PacifiCorp would to give back to ratepayers $4.8 million in REC revenues by means of "12 monthly credits"[3] spread over the rate year, i.e., the twelve months ending April 2, 2012.[4] At the end of the rate year, i.e., on or about April 2, 2012, PacifiCorp was required to "submit a full accounting of REC proceeds actually received during the preceding 12 months."[5] This accounting "will be considered in light of other information to determine if the amount of credits that should be returned to customers exceeds or falls short of the estimated $4.8 million upon which the initial credits are based. In other words, the Commission will authorize a true-up of the initial credits that can be reconciled as credits are paid during the following 12 months."[6]

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[2] Id at 2, ¶ 3.
[3] *Utilities and Transp. Comm'n v. PacifiCorp,* Docket UE-100749, Order 06 (March 25, 2011) at 72, ¶ 204.
[4] Id. at 72, ¶ 203: "the rate year (i.e., the "12 months form the effective date of the rates following approval of PacifiCorp's compliance filing ..." The effective date of the rates was April 3, 2011.
[5] Id. at ¶ 205.
[6] Id.

5 At the end of the rate year (i.e., around April 2, 2012), the Company was required to "provide an estimate of the REC proceeds its [sic] expects to receive during the [12 months following the end of the rate year]", which would form the basis for the REC credit for that subsequent 12-month period.[7] The Commission required this type of filing every 12 months thereafter.[8]

6 This mechanism was transitional because the Commission had not yet determined the full extent to which PacifiCorp would be required to return REC revenues to ratepayers. In Order 06, the Commission set up a process for making such a determination.[9]

2. PacifiCorp Failed to Comply With Order 06

7 The simple fact is that PacifiCorp failed to comply with Order 06. Specifically, at the end of the rate year (April 2, 2012), PacifiCorp failed to submit to the Commission the "full accounting" of REC revenues it "actually received" during the rate year, and PacifiCorp failed to provide the Commission an estimate of REC revenues for the ensuing 12-month period.

8 As a consequence , PacifiCorp never made the rate change to the Schedule 95 credit based on anticipated REC sales for the 12 months following the rate year, and there was no true-up determined based on any difference between the amount PacifiCorp credited during the rate year and the amount of REC revenues PacifiCorp "should have … returned to customers".

9 Instead, PacifiCorp simply kept the initial REC payback tariff in place. Now, PacifiCorp claims it has returned too much REC revenues to ratepayers, and hopes the Commission will set the Schedule 95 rate to zero.

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[7] Id. at ¶ 205.
[8] Id.
[9] Id. at ¶ 207-08.

3. The Commission Should Insist PacifiCorp Comply With Order 06

10 The Commission should deny Part 1 of PacifiCorp's Motion, because zeroing out Schedule 95 violates Order 06. As we have explained, Order 06 contemplates an ongoing REC credit tariff.

11 The Commission should order PacifiCorp to comply with Order 06 by: 1) submitting the amount of REC revenues the Company returned to customers during the rate year; and 2) submitting a "full accounting of the REC proceeds actually received during the rate year". The Commission can then determine, "in light of other information" whether PacifiCorp has returned the correct amount of REC revenues, and if not, the amount of a true-up (plus or minus). Finally, the Commission should order PacifiCorp to: 3) provide an estimate of the REC proceeds PacifiCorp expects to receive during the 12 months after the end of the rate year. The amount of the new Schedule 95 credit would be based on that estimate, net of any true-up from the rate year.

12 Looking ahead to the end of that second 12-month period (i.e., the 12 months after the end of the rate year: the 12 months ended April 2, 2013), around April 2, 2013, the Company would file a "full accounting" of what it paid out under that new Schedule 95 rate and what REC revenues it "actually received" during that period. The Commission would establish a new Schedule 95 rate at that point, with whatever true-up is necessary at that time. Of course, the Commission may or may not have a different mechanism in place by that time, pursuant to Order 10. However, in the meantime, Order 06 provides the Commission-ordered process, and PacifiCorp should follow it until that process is changed. Notably, PacifiCorp asks for no change in this process. There is no reason to abandon it.

4. The Commission Can Clarify that Order 06 Pertained Only to Rate Year REC Revenues

13 Staff agrees with PacifiCorp that the Schedule 95 rate credit established in Order 06, Paragraphs 204 -206, was for REC revenues attributable to the rate year and in subsequent 12-month periods, for as long as the transitional mechanism would last. That is the only sensible reading because of the true-up process described in Paragraph 205. In other words, it makes no sense for PacifiCorp to submit a "full accounting" of REC revenues "actually received" during the rate year if the Commission intended the Company to pay out REC revenues attributable to other periods.[10]

14 Notably, in Paragraph 207 of Order 06, the Commission specifically requested additional briefing on the REC revenue vintage issue, and other issues, but indicated that "we do not finally resolve these questions in this Order."[11] The Commission recently has resolved these questions, but has yet to decide the mechanism for passing back the appropriate amount of REC revenues to ratepayers. Thus, while the REC rate credit mechanism in Order 06 is a transitional mechanism, it should be followed as long as it is in effect, subject to reconciliation in the final mechanism.

5. PacifiCorp's Request for Deferred Accounting is Unnecessary

15 The Commission does not need to grant Part 3 of the Company's Motion, in which PacifiCorp seeks permission to use deferred accounting for any excess of REC payments

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[10] In Staff's Post Hearing Brief on Behalf of Commission Staff (November 4, 2011) (Post Hearing Brief), Staff addressed the language in Paragraph 204 of Order 06 that states: "[the Commission] will accept for purposes of establishing 2011 credits the amount of REC revenues to which Staff and Company agree, approximately $4.8 million." As we explained then, Staff considered that $4.8 million figure to be the *test-period actual REC revenues*, before imputation of monetary value to Washington for RECs PacifiCorp held for compliance in other states. Staff Post Hearing Brief at 3-4. Staff understands PacifiCorp was using that same figure as its *forecast of rate year REC revenue levels*. Id. Nonetheless, Staff interprets Order 06 as using the $4.8 million figure as the rate year level, and that the Commission would address prior period REC revenues and other calculation issues in future orders. See Order 06 at 207-08.

[11] Order 06 at 73, ¶ 207.

over REC proceeds. As we have explained, Order 06 specifically calls for a "true-up". Therefore, Order 06 contemplates deferrals of any difference between the amount of REC monies credited to ratepayers through Schedule 95 and the amount of REC revenues the Commission determines the Company should have credited. Further Commission authorization is unnecessary.

DATED this 20th day of December 2012.

Respectfully submitted,

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