



Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

800 Fifth Avenue #2000 • Seattle WA 98104-3188

December 20, 2012

VIA ELECTRONIC FILING & ABC LMI

David Danner
Executive Director & Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Re: WUTC v. PacifiCorp D/B/A Pacific Power & Light Company
Docket UE-100749

Dear Mr. Danner:

Enclosed please find the original and seventeen (17) copies of Public Counsel Response to PacifiCorp Motion to Amend Order 06 for filing in the above mentioned docket.

Sincerely,

Simon J. Ffitch
Senior Assistant Attorney General
Public Counsel Division
(206) 389-2055

SJf:cjw

Enclosures

cc: Service List (E-mail & First Class Mail)

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

PUBLIC COUNSEL RESPONSE TO
PACIFICORP MOTION TO AMEND
ORDER 06

I. INTRODUCTION

1. Pursuant to WAC 480-07-375(4), Public Counsel files this response opposing PacifiCorp's Motion to Amend Order 06 in this docket.

II. RESPONSE

2. The Company makes three requests in its motion. Each is addressed separately below.
- A. **The Company Requests the Commission Amend Order 06 to End the Over-Crediting to Customers and Approve Revisions to Schedule 95, So That Rates Under the Schedule Will Equal Zero Cents Per kWh For All Rate Schedules, Effective Immediately.**
3. Public Counsel opposes this request for several reasons. First, Order 11 in Docket UE-100749 denies PacifiCorp's Petition for Reconsideration and stay and affirms Order 10 which requires all historic¹ Renewable Energy Credit (REC) revenues to be returned to customers.² The proper approach in light of this ruling is to operate as if Order 11 is law and customers will receive the historic REC revenues. While Order 11 does not say when the Commission will

¹ "Historic" REC revenues refers to those from January 1, 2009 to April 2, 2011.

² *WUTC v. PacifiCorp*, Docket UE-100749, Order No. 11 (Nov. 30, 2012) ("Order No. 11").

implement the crediting mechanism associated with these revenues³, it is reasonable to assume it will be in the foreseeable future. Therefore, PacifiCorp should be required to continue the REC credit under Schedule 95 until the Commission modifies the current tracking mechanism to include historic REC revenue, thereby avoiding multiple rate changes associated REC credits. Our understanding is that the historic REC revenues are significantly greater than PacifiCorp's claimed overpayment of \$2.6 million in REC credits. Therefore, the historic REC revenues can more than offset any overpayment that exists, as well as additional negative balances that may accrue in the foreseeable future. Maintaining the current credit under Schedule 95 until the historic REC revenues are disbursed also avoids a bill increase for customers during the peak of the winter heating reason.

4. Public Counsel does not support delaying crediting customers the historic REC revenues until the conclusion of any judicial review. The Commission has already denied PacifiCorp's request for stay. However, if the Commission were to determine that historic REC revenues should not be returned to customers until the outcome of a potential appeal, parties can revisit whether revisions to Schedule 95 should be made before the historic REC revenues are disbursed. This is not a "now or never" situation.⁴

5. It is also worth noting that the overpayment claim made by the Company is to a large extent of PacifiCorp's own making. Under Order 06 the initial REC revenue rate credit was authorized subject to a true-up "to be reconciled as credits are paid during the following 12

³ Order 11, ¶ 38.

⁴ We acknowledge that is not ideal to maintain a rate credit that will result in an overpayment to customers. However, in this case the impact is both temporary and relatively minor. It is further justified by the specific circumstances discussed in this response such as the fact that historic REC revenues may be used as an offset to the overpayment and the ability of parties to address this issue at a later date if assumptions change regarding when the historic REC revenues will be returned to customers.

months.”⁵ The Company began crediting REC revenues to customers in April, 2011. However, PacifiCorp has waited until now, 18 months after first beginning the credit, to implement a true-up. The Company could have avoided the overpayment it now claims to have made if it had complied with Order 06 in a timely manner.

B. The Company Requests the Commission 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.

6. This request should be denied. Order 11 is clear in its intent that a new bill crediting mechanism must be devised for the historic REC revenues and no bill crediting mechanism has been adopted for historic REC revenues. Therefore, it is not necessary to clarify this in Order 06. Order 06 clearly states it does not address historic REC revenues.

7. Regardless of the mechanism used to return historic REC revenues in the future, it is appropriate and in the best interest of customers to address the overpayment of REC revenues and the credit for historic REC revenues at the same time in order to avoid multiple rate changes and increase to in customer bills in the winter heating season. Even if the true-up and historic REC credits are passed through to customers by different mechanisms, they can still occur at the same time.

C. 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.

8. The Commission has already authorized deferred accounting for REC revenues after April 2011 in Order 06, subject a true-up. Since a balancing already exists for REC revenues

⁵ *WUTC v. PacifiCorp*, Docket UE-100749, Order No. 06 ¶ 205 (Mar. 25, 2011) (“Order No. 06”).

received after April 2011, the request for a separate deferral account is redundant and unnecessary and should therefore be rejected.

III. CONCLUSION

9. For the foregoing reasons, Public Counsel requests that PacifiCorp's motion to amend Order 06 in this docket be denied.

10. DATED this 20th day of December, 2012.

ROBERT M. McKENNA
Attorney General

A handwritten signature in black ink, appearing to read "Simon J. Ffitch" with a stylized flourish at the end.

Simon J. Ffitch
Senior Assistant Attorney General
Public Counsel Division

CERTIFICATE OF SERVICE
Docket No. UE-100749

I hereby certify that a true and correct copy of Public Counsel Response to PacifiCorp Motion to Amend Order 06 were sent to each of the parties of record shown on the attached Service List in sealed envelopes, via: U.S. Mail and Electronic Mail.

SERVICE LIST UE-100749

**** = Receive Highly Confidential; * = Receive Confidential; NC = Receive Non-Confidential**

PacifiCorp * Katherine A. McDowell McDowell Rackner & Gibson PC 419 SW 11th Ave Suite 400 Portland, OR 97205	WUTC STAFF* Donald T. Trotter Assistant Attorney general 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128
PacifiCorp * Mary Wiencke Legal Counsel 825 NE Multnomah ST STE 1800 Portland OR 97232	ICNU:* Irion Sanger Melinda Davison Davison Van Cleve, P.C. 333 SW Taylor Suite 400 Portland OR 97204
ENERGY PROJECT* Brad Purdy Attorney at Law 2019 N. 17 th Street Boise ID 83702	ICNU:* Donald W. Schoenbeck Regulatory & Cogeneration Services, Inc. 900 Washington Street, Suite 780 Vancouver, WA 98660
	WAL-MART AND SAM'S WEST* Arthur A. Butler Ater Wynne LLP 601 Union Street Suite 1501 Seattle WA 98101 3981

DATED: December 20, 2012.


CAROL WILLIAMS, Legal Assistant