

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UE-100749
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	ORDER 12
	)	
v.	)	
	)	
PACIFICORP D/B/A PACIFIC	)	ORDER MODIFYING ORDER 06
POWER & LIGHT COMPANY,	)	AND REQUIRING COMPLIANCE
	)	FILING
Respondent.	)	
	)	
.....	)	

**BACKGROUND**

- 1 By Order 06, entered March 25, 2011, the Washington Utilities and Transportation Commission (Commission) resolved all issues regarding PacifiCorp d/b/a Pacific Power & Light Company’s (PacifiCorp or Company) request for a general rate increase except for certain issues regarding the appropriate treatment of the proceeds from the Company’s sale of Renewable Energy Credits (RECs). The Commission concluded in that order that those proceeds should be distributed to PacifiCorp’s ratepayers as a bill credit, and pending resolution of other issues, required the Company to begin crediting customers for REC sales proceeds based on a forecast of future REC sales proceeds, subject to true-up to actual amounts PacifiCorp received.
  
- 2 On December 14, 2012, PacifiCorp filed a Motion to Amend Order 06 (Motion). The Company estimates that the rate credits in its tariff Schedule 95 established to comply with Order 06 have resulted in PacifiCorp crediting \$2.6 million more in REC sales proceeds from April 3, 2011, through December 2012 than the Company received during that period.<sup>1</sup> PacifiCorp represents that, “[w]ithout modification, Schedule 95 will continue to credit REC [sales proceeds] to customers based on the forecast

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<sup>1</sup> Motion ¶ 3.

amount set in Order 06, which would result in the Company continuing to over-credit REC [sales proceeds] to customers.”<sup>2</sup>

3 Accordingly, PacifiCorp requests that the Commission: (1) amend Order 06 to enable the Company to cease over-crediting customers effective immediately; (2) clarify that the bill credit established in Order 06 applies only to REC sales proceeds received after the April 3, 2011, rate effective date; and (3) allow deferred accounting for credits of REC sales proceeds in excess of the amounts actually owed to customers.

4 On December 20, 2012, Commission Staff (Staff) filed a Response to the Motion. Staff states that the circumstances PacifiCorp describes are the result of the Company’s failure to comply with Order 06. In that order, Staff asserts, the Commission required PacifiCorp to submit an accounting after twelve months of the actual REC sale proceeds the Company generated during the rate year and authorized a true-up of the credits at that time to conform to actual REC sales. Staff recommends that the Commission deny the Motion and require the Company to comply with Order 06. Staff does not object to clarifying that the credit mechanism in that order applies only to REC sales proceeds received after April 3, 2011, but states that the deferred accounting PacifiCorp requests is unnecessary in light of the true-up mechanism the Commission established in Order 06.

5 On December 20, 2012, the Public Counsel Section of the Washington Attorney General’s Office (Public Counsel) filed a Response to the Motion. Public Counsel opposes the Motion on similar grounds to those Staff has identified. Public Counsel also maintains that the amount of historic REC sales proceeds PacifiCorp must credit to ratepayers exceeds the \$2.6 million in excess credits the Company alleges and recommends that the Commission not allow PacifiCorp to raise customers’ rates now, during the winter heating season, but should require the Company to make a single adjustment to the credit amount when adopting a mechanism for crediting historic REC sales proceeds as required in Orders 10 and 11.

6 The Industrial Customers of Northwest Utilities (ICNU) also opposes the Motion in a Confidential Response in Opposition to the Motion filed on December 20, 2012. ICNU largely makes the same arguments that Staff and Public Counsel make but states its view that PacifiCorp has not made the showing necessary to amend a

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<sup>2</sup> *Id.*

Commission order. In addition, ICNU contends that the Company has not provided sufficient evidence in support of its Motion, thus denying the Commission and the parties the opportunity to determine the accuracy of PacifiCorp's factual claims, and that the Motion improperly renews the Company's request for a stay of crediting historic REC sales proceeds that the Commission has previously denied.

### DISCUSSION AND DECISION

- 7 We construe the Motion as PacifiCorp's proposal to cease over-crediting customers for REC sales proceeds the Company has received since April 3, 2011, and nothing more. We agree with the other parties who observe that Order 06 contemplated that PacifiCorp would file an accounting of actual REC sales twelve months after the rates ordered in Order 06 became effective, and that the credit amount in Schedule 95 would have been adjusted in the wake of that accounting to reconcile forecasted and actual sales amounts.<sup>3</sup> We find no value, however, in ascribing fault to the Company for not having done so. Such an exercise will not remedy the circumstances described in the Motion.
- 8 We nevertheless cannot grant the relief PacifiCorp has requested. ICNU correctly points out that the Motion lacks sufficient evidentiary support. Even assuming PacifiCorp has, in fact, over-credited \$2.6 million to customers as the Company claims, PacifiCorp has not provided any information on REC sales proceeds the Company reasonably can anticipate receiving in the future. Reducing the credit in Schedule 95 to zero would address the excess credits to date, but REC sales in the coming months may erase that deficit, necessitating resumption of a customer credit. We were trying to avoid just such rate fluctuation when we established the crediting mechanism in Order 06.
- 9 On the other hand, we are not willing simply to order PacifiCorp to comply with Order 06 as the other parties propose. Requiring the Company to continue to over-credit customers for another three months or more would be a disservice to both PacifiCorp and its customers. Nor are we prepared at this point to offset any such overpayments with historic REC sales proceeds. Order 06 established a temporary mechanism for distribution of proceeds from ongoing REC sales based on forecasts, while Orders 10 and 11 required the parties to develop or propose a mechanism for

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<sup>3</sup> Order 06 ¶ 205.

crediting all REC sales proceeds, both historic and ongoing, based on actual amounts the Company receives. Until we adopt and implement that mechanism, we will not “borrow” from historic REC sales proceeds to offset deficiencies in the credits established in Order 06.

- 10 Accordingly, we will modify Order 06 to require PacifiCorp to file a full accounting of the REC sales proceeds the Company has received from April 3, 2011, through December 31, 2012, along with a forecast of the REC sales proceeds PacifiCorp reasonably anticipates receiving in 2013 and a proposed revision to the credit in Schedule 95 to reconcile the past overpayments through credit amounts paid over the coming calendar year. Other parties will have an opportunity to respond to that filing, and the Commission will adjust the credit amount as contemplated in Order 06 or take whatever other or additional action the Commission finds appropriate.
- 11 Such a process implements paragraph 205 in Order 06 immediately, rather than waiting until the anniversary of the rate effective date on April 3, 2013. We believe this approach best balances the interests of the Company and its customers while maintaining the credit mechanism established in Order 06 pending replacement by a more permanent solution.
- 12 With respect to that solution, we are also concerned with ICNU’s representation that “PacifiCorp has not implemented the Commission’s directive to work cooperatively with the parties to develop a mechanism to return these credits,”<sup>4</sup> even though parties must submit an agreed mechanism or individual proposals by the beginning of March 2013.<sup>5</sup> We therefore will require the Company and interested parties to report on the status of their discussions to develop the credit mechanism required in Orders 10 and 11 when parties make their respective filings pursuant to this order.

## ORDER

THE COMMISSION ORDERS that:

- 13 (1) PacifiCorp’s Motion to Amend Order 06 is granted in part and denied in part.

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<sup>4</sup> ICNU Response ¶ 4.

<sup>5</sup> Order 11 ¶ 41; Order 10 ¶ 75.

- 14 (2) By January 16, 2013, PacifiCorp shall file (a) a full accounting of REC sales proceeds the Company has received from April 3, 2011, through December 31, 2012; (b) a forecast of the REC sales proceeds PacifiCorp reasonably anticipates receiving from January 1, 2013, through December 31, 2013; (c) a proposed revised customer credit amount for inclusion in Schedule 95 that will reflect that forecast for 2013 and reconcile the previous forecasted REC sales proceeds to the actual amounts the Company has received since April 3, 2011; and (d) a report on the status of discussions with the other parties on development of a mechanism for crediting historic and future REC sales proceeds to the Company's customers as required by Orders 10 and 11.
- 15 (3) By January 31, 2013, all other parties shall file a response to PacifiCorp's accounting, forecast, proposed revision to Schedule 95, and report on discussions with other parties.

Dated at Olympia, Washington, and effective December 28, 2012.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**JEFFREY D. GOLTZ, Chairman**

**PATRICK J. OSHIE, Commissioner**

**PHILIP B. JONES, Commissioner**