

**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

COMMENTS OF PUBLIC  
COUNSEL IN RESPONSE TO  
PACIFICORP COMPLIANCE  
FILING (REDACTED)

**I. INTRODUCTION**

1. Public Counsel files these comments in response to the Commission's October 9, 2014, Notice of Opportunity to Respond to PacifiCorp's Renewable Energy Revenue Adjustment Compliance filing. PacifiCorp seeks to recover \$5.2 million in over-credited revenues from the sale of renewable energy credits. This request would result in an overall 1.6% rate increase for customers and would increase the average residential customer's monthly bill by \$1.86. Public Counsel does not oppose recovery of the principal but recommends that the total interest accrued on the negative REC revenue balance beginning May 1, 2013, through the requested effective date of this filing, be disallowed for recovery. This amounts to **[BEGIN CONFIDENTIAL]**

 **[END CONFIDENTIAL]**

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<sup>1</sup> PacifiCorp Compliance Filing, Re: Advice 14-06—Schedule 95—Renewable Energy Revenue Adjustment, Confidential Attachment D, Docket UE-100749 (Oct. 3, 2014) (hereafter, "PacifiCorp Compliance Filing.")

COMMENTS OF PUBLIC COUNSEL IN  
RESPONSE TO PACIFICORP  
COMPLIANCE FILING (REDACTED)  
DOCKET UE-100749

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ATTORNEY GENERAL OF WASHINGTON  
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2. As described in these comments, in 2013 and 2014 PacifiCorp failed to make a REC revenue true-up filing in accordance with Commission order and a joint agreement for a REC revenue crediting mechanism filed by the Company, Public Counsel, Staff, and ICNU in February 2013. PacifiCorp should not be allowed to recover the interest that has accrued on the balance after May 1, 2013, the date by when it should have filed its first REC revenue true-up.

## II. DISCUSSION

### A. Background.

3. Beginning with Order 06 in this docket, the Commission has addressed the appropriate treatment of PacifiCorp's REC revenues and the development of its REC crediting mechanism in several orders. For purposes of this filing, PacifiCorp's compliance with Order 10 and Order 13 are at issue. The requirements of these Orders and PacifiCorp's failure to comply are addressed below.

### B. PacifiCorp was required to make a REC revenue true-up filing in 2013 and 2014 and failed to do so.

4. On February 12, 2013, the Commission issued Order 13 in Docket UE-100749. This Order required PacifiCorp to file an annual REC compliance report and a true-up filing with a proposed revision to the REC credit rate in Schedule 95.<sup>2</sup> The Commission ordered that this report be filed by January 31 of each year, beginning in 2014, unless the Commission had

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<sup>2</sup> The Order stated: "Beginning in 2014 unless the Commission adopts a different mechanism for crediting ongoing REC sales proceeds to customers, PacifiCorp must make the annual report and true-up filing contemplated in Order 06 by January 31 of each year. That filing must include (a) the actual REC sales proceeds attributable to Washington that PacifiCorp received during the prior calendar year; (b) the total amount of Schedule 95 credits the Company provided to its customers during that calendar year; (c) a forecast of the REC sales proceeds attributable to Washington that PacifiCorp reasonably anticipates receiving during the upcoming calendar year; and (d) any proposed revision to the credit rate in Schedule 95 to be in effect during the upcoming calendar year." *WUTC v. PacifiCorp*, Docket UE-100749, Order 13, ¶8.

adopted a different mechanism for crediting REC sales proceeds to customers by that time. Here, the Commission was referring to the possibility that a different mechanism might have emerged based on Order 10. Order 10 required PacifiCorp and parties to the 2010 rate case, including Public Counsel, Commission Staff, and ICNU, to develop and file an agreed-upon REC crediting mechanism with the Commission.<sup>3</sup> At the time when Order 13 was issued, this had not yet occurred, but one week later, on February 28, 2013, the parties filed an agreed Renewable Energy Revenue Tracking Mechanism (agreed mechanism) (copy attached) outlining a proposed REC revenue crediting mechanism in compliance with Order 10. The agreed mechanism provided that on May 1 of each year beginning May 1, 2013, the Company would submit a compliance filing detailing REC revenues for the previous calendar year as well as a REC revenue true-up.<sup>4</sup>

5. Although the Commission did not formally approve the agreed mechanism by order, it implicitly recognized the joint agreement of the parties in a January 23, 2014, Notice extending the deadline for PacifiCorp to comply with Order 13 REC compliance filing and true-up requirements, consistent with the agreed mechanism. The Notice stated: “pending further action on that issue, the Commission extends the initial deadline for PacifiCorp to comply with

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<sup>3</sup> *WUTC v. PacifiCorp*, Docket UE-100749, Order 10, ¶¶ 57-60 (August 23, 2012).

<sup>4</sup> “On May 1 of each year (beginning May 1, 2013) the Company will submit a compliance filing detailing REC and REA revenues for the previous calendar year. The annual filing will also include revisions and updates to the tariff schedule designed to credit or charge Washington customers for the prior year’s Washington-allocated net revenues over an approximate one-year period beginning 30 days from the Company’s compliance filing (June 1). The compliance filing will occur each year with true-ups for any over- or under-crediting of net revenues based on fluctuations in Washington KWh sales.” *WUTC v. PacifiCorp*, Docket UE-100749, Joint Letter re: Renewable Energy Credit Tracking Mechanism, p. 2 (Feb. 28, 2013).

paragraph 8 in Order 13 to May 1, 2014, *based on the parties' agreement that the Company will submit a filing detailing its REC sales proceeds by May 1 each year.*"<sup>5</sup>

6. By May 1, 2013, PacifiCorp had over-credited customers [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in REC revenues. Given this large negative balance and the agreed mechanism filed by the joint parties, PacifiCorp reasonably should have filed a true-up at that time as contemplated by the agreed mechanism. If the Company had questions about how to deal with the negative balance, in light of the agreed mechanism it had filed, it could have sought direction from the Commission, but did not do so.
7. PacifiCorp's obligation to make a REC compliance and true-up filing in May 2014 was even clearer. As noted, Order 13 expressly required PacifiCorp to make a 2014 REC compliance filing and true-up by January 31, 2014. The Notice just mentioned extended the deadline for filing until May, but did not waive the true-up requirement of the Order. This notice clarified that PacifiCorp should make a REC true-up filing, as contemplated in Order 13, by May 1, 2014, yet PacifiCorp again failed to do so.
8. PacifiCorp did not file a REC true-up in either 2013 or 2014 and instead only filed informational REC compliance reports in May of each year. The Company therefore failed to comply with both the agreed mechanism of the parties regarding its REC crediting mechanism and the Commission's Order 13.

**C. The interest accrued on PacifiCorp's negative REC balance should be disallowed.**

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<sup>5</sup> *WUTC v. PacifiCorp*, Docket UE-100749, Notice of Extension of Deadline for Compliance Filing, p.1 (Jan. 23, 2014) (emphasis added).

<sup>6</sup> PacifiCorp Compliance Filing, Confidential Attachment D.

9. Of the total \$5.2 million negative balance PacifiCorp seeks to recover, [**BEGIN CONFIDENTIAL**] [REDACTED] [**END CONFIDENTIAL**] is due to interest that has accrued on the balance since May 1, 2013. It is not reasonable for the Company to expect its customers to bear the additional burden of interest accrued on the negative REC balance when the interest is a result of PacifiCorp's own decision not to make timely true-up filings.

**D. PacifiCorp's arguments have no merit.**

10. PacifiCorp states in its compliance filing that it did not pursue recovery of the over-credited REC revenues in its May 1, 2013, or May 1, 2014, compliance filings "due to the ongoing controversy and appeal of Commission orders."<sup>7</sup> This argument does not make sense for a number of reasons. First, when the Company filed the agreed mechanism for REC crediting and true-up in February 2013, the appeal of Order 10 was already underway.<sup>8</sup> If the Company believed the appeal was a deterrent to making a REC compliance filing and true-up, it would not have filed a joint agreement that included a REC compliance filing and true-up process. Second, the appeal of Order 10 specifically addressed the treatment of "historic REC revenues," the revenues for the period January 2009 through March 2011.<sup>9</sup> The REC compliance filing and true-up required under Order 13 and the joint agreement address post April 2011 amounts<sup>10</sup> and therefore do not implicate the historic REC revenues that were at issue in the appeal. Finally, as previously discussed, the Commission provided explicit guidance to PacifiCorp regarding its 2014 REC compliance and required the Company to make a REC compliance filing and true-up by May 1, 2014. While the January 2014 Notice acknowledged

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<sup>7</sup> PacifiCorp Compliance Filing, p.3.

<sup>8</sup> PacifiCorp Petition for Judicial Review of Agency Action, Docket UE-100749, (Dec. 28, 2012).

<sup>9</sup> Order 10, Docket UE-100749, ¶74.

<sup>10</sup> PacifiCorp Compliance Filing, p. 3.

that the Commission had not yet established or approved a mechanism for accounting for REC sales proceeds due to Company's judicial appeal and other factors, this must be read in the context of the Commission requiring the 2014 compliance and true-up filing, and acknowledging the agreed mechanism.

11. PacifiCorp also suggests that its decision to not make a true-up filing in May of 2013 or 2014 is excused because no party contested its informational REC compliance filings.<sup>11</sup> This argument is nothing more than an attempt to shift the burden of compliance to other parties. PacifiCorp has the obligation to make reasonable and prudent decisions on regulatory matters and to minimize costs to its customers. It is telling that PacifiCorp chose to partially comply with the agreed mechanism and Order 13 by making compliance filings in May of each year, but chose to ignore the related true-up filings that were expected to be made on those same dates.

### III. CONCLUSION

12. For the foregoing reasons, Public Counsel respectfully requests that the Commission disallow the total amount of interest accrued on the negative REC revenue balance beginning May 1, 2013. This amount totals [BEGIN CONFIDENTIAL] [REDACTED]. [END CONFIDENTIAL]

13. DATED this 17th day of October, 2014.

ROBERT W. FERGUSON  
Attorney General

Simon J. Ffitch  
Senior Assistant Attorney General  
Public Counsel Division

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<sup>11</sup> PacifiCorp compliance filing, p.2.



***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: Steven V. King  
Acting Executive Director and Secretary

**RE: Docket UE-100749—Renewable Energy Revenue Tracking Mechanism**

Dear Mr. King:

In accordance with Washington Utilities and Transportation Commission (Commission) Orders 10 and 11 in Docket UE-100749, PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp or Company) submits this letter jointly with Commission Staff, the Industrial Customers of Northwest Utilities, and Public Counsel. This letter describes the parties' agreed-upon proposal for a mechanism to account for renewable energy credit (REC) and renewable energy attribute (REA) revenue. In paragraph 75 of Order 10 the Commission ordered the following:

[P]arties must file either an agreed mechanism for crediting historic and future Renewable Energy Credits sales proceeds to PacifiCorp's customers, or individual proposals for such a mechanism accompanied by supporting documentation demonstrating how the proposal complies with this order and Commission objectives.

On January 9, 2013, the parties held a conference call and were able to agree on the calculations for determining Washington's share of REC and REA revenues and an appropriate mechanism. Although the parties agree on the design of the mechanism, the parties do not agree on whether revenues before April 3, 2011, should be credited to customers. The Company is currently appealing this issue. Detailed below is the operation of the mechanism and the method for calculating REC and REA revenues. The parties request that the Commission issue an order approving the calculations and the operation of the mechanism described below.

**Operation of the Mechanism**

On May 1 of each year (beginning May 1, 2013) the Company will submit a compliance filing detailing REC and REA revenues for the previous calendar year.<sup>1</sup> The annual filing will also include revisions and updates to the tariff schedule designed to credit or charge Washington customers for the prior year's Washington-allocated net revenues over an approximate one-year period beginning 30 days from the Company's compliance filing (June 1). The compliance filing will occur each year

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<sup>1</sup> The Company recognizes that Order 13 in Docket No. UE-100749 establishes a January 31 filing date. However, Western Renewable Energy Information System (WREGIS) certificates from renewable generation are not created until 90 days after the end of each generation month. Accordingly, the Company requires an approximate four month period to transfer the WREGIS certificates to counterparties and validate actual generation by resource.

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with true-ups for any over- or under-crediting of net revenues based on fluctuations in Washington KWh sales. Interest will accrue on the net balance at the Company's Washington after-tax authorized rate of return (currently 6.72 percent as established in docket UE-111190). To the extent the Commission orders pre-April 3, 2011 revenues to be credited to customers, a mechanism similar to that described above would be used, potentially modified to lengthen the amortization period to avoid significant fluctuations in customer rates. Order 10 required the Company to credit to customers REC and REA revenues from January 1, 2009, through April 2, 2011. Accordingly, the Company will accrue interest on the pre-April 3, 2011 balance at the Company's Washington after-tax authorized rate of return from the date of that order (August 23, 2012) forward.<sup>2</sup> This is consistent with the Company's accounting treatment, where a regulatory liability was established upon receipt of the order and is accruing interest each month. To the extent pre-April 3, 2011 revenues are credited to customers, the Company will ensure there is no double-counting of revenues from the post-April 3, 2011 periods.

### **Calculation of Washington-allocated REC and REA Revenues**

Confidential Attachment A shows an accounting of actual revenues from January 1, 2009, through March 31, 2011,<sup>3</sup> calculated in compliance with Orders 10 and 11.<sup>4</sup> Confidential Attachment B is parallel in structure to Confidential Attachment A, but covers the time period from April 1, 2011 through January 31, 2013. Confidential Attachment C shows a summary of the Company's megawatt hours (MWh) of renewable generation, quantities of REAs and RECs sold, quantities of REAs and RECs held for compliance, and revenues from sales of REAs and RECs for the various types of renewable generation (wind, small hydro, large hydro, and biomass) from resources included in the west control area. This attachment also shows the average price of REAs and RECs used for the revenue imputation calculations in Confidential Attachments A and B. Confidential Attachment D shows that the Company credited \$8.4 million to customers through Schedule 95—Renewable Energy Revenue Adjustment, from April 1, 2011 through January 31, 2013.<sup>5</sup>

Page 1 of Confidential Attachment A shows, for the period January 1, 2009, through March 31, 2011, a summary of the Washington allocation of actual and forecast revenues from known contracts as of February 4, 2013 (line 1), the Washington allocation of imputed revenues associated with REAs or RECs held for compliance (line 2), an adjustment for Washington's RPS compliance requirements (line 3), and REA or REC sales included in rates in the Company's 2009 general rate case (line 4). Total Washington-allocated revenues are calculated on line 5.

Page 2 of Confidential Attachment A shows the more detailed calculations that are summarized on page 1. The first step in determining Washington-allocated REA or REC revenues is allocating revenues from the sale of REAs or RECs from west control area resources. Lines 1 through 6 show the total revenue (actual or forecast) from west control area resources. Lines 10 through 15 show Washington's allocation of these revenues using the Control Area Generation West (CAGW) factor.

<sup>2</sup> Interest will be calculated and presented in the Company's compliance filings on May 1 of each year. Please note that interest is not reflected in the amounts presented in Confidential Attachments A and B.

<sup>3</sup> For administrative ease, the pre-April 3, 2011 revenues are categorized as amounts through March 31, 2011.

<sup>4</sup> The Company designates portions of Attachments A and B and all of Attachment C as confidential under the Protective Order in this docket, Order 03.

<sup>5</sup> Consistent with Order 13, the Company adjusted Schedule 95 to zero cents per kilowatt hour, effective February 12, 2013. The Company estimates that an additional \$300,000 was credited to customers in February prior to the rate adjustment.



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The second step is the calculation of imputed revenues associated with REAs or RECs held for compliance according to section C of Order 10. Lines 17 through 50 reflect the calculation of Washington's allocation of the value of REAs or RECs held for compliance. These imputation calculations are categorized by renewable generation resource type (wind, small hydro, large hydro, and biomass). The Company allocates Washington its CAGW share of all REAs or RECs held for compliance, and then multiplies that share by an average price based on transactions for that type and vintage of REA or REC. As described in paragraph 31 of Order 11, this calculation is based on the premise that 100 percent of these REAs or RECs were effectively "sold" by the Company.

The third step in the calculation is shown on lines 52 through 55 and reflects an adjustment for Washington's RPS compliance requirement. This calculation uses the same average price assumption for wind RECs as used in the revenue imputation calculation for RECs held for compliance (described above).

The final step is to subtract REA or REC revenues included in rates from January 1, 2010, through March 31, 2011, as part of the Company's 2009 general rate case. This is detailed on lines 57 through 59. Total Washington-allocated REA or REC revenue is calculated on line 59 and is carried forward to page 1, line 5. As stated above, Confidential Attachment B is parallel in structure to Confidential Attachment A, but covers the time period from April 1, 2011 through January 31, 2013.

The parties agree to the calculation method for determining Washington's allocation of REA and REC revenue described above. This methodology is consistent with Commission Orders 10 and 11 in this docket. The same methodology was used in the Company's compliance filings submitted on December 31, 2012,<sup>6</sup> and January 16, 2013.<sup>7</sup>

Although not agreed to by the parties, in the future the Company may seek to amend the mechanism to include costs associated with Washington renewable portfolio standard compliance, such as REC purchases, through a separate filing.

Sincerely,

William R. Griffith  
Vice President, Regulation  
PacifiCorp

On behalf of PacifiCorp, Commission Staff, the Industrial Customers of Northwest Utilities, and Public Counsel.

Enclosures

cc: UE-100749 Service List

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<sup>6</sup> The December 31, 2012 filing was made in compliance with Orders 10 and 11.

<sup>7</sup> The January 16, 2013 filing was made in compliance with Order 12.