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VIA ELECTRONIC FILING

Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
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RE: Docket U-161024—Pacific Power & Light Company's Comments

In response to the Notice of Opportunity to File Written Comments issued by the Washington Utilities and Transportation Commission (Commission) March 16, 2017, Pacific Power & Light Company (Pacific Power), a division of PacifiCorp, submits these written comments.

I. BACKGROUND

The Commission seeks comments on a wide range of policy issues relating to avoided cost pricing methodologies and standard contract terms and practices. Pacific Power provides responses to the Commission's questions below, but first provides background regarding Washington's policy preference to rely less on the Public Utility Regulatory Policy Act (PURPA) and more on other superior methods to promote renewable energy development in the state. For Pacific Power customers, limiting standard contracts to a maximum five-year term for small qualifying facilities (QFs) of 100 kW or less would protect customers against overpaying for energy.

As the Commission has previously emphasized, "Washington policy makers have relied less on PURPA and more on renewable portfolio standards and greater use of tax-related incentives to promote renewable energy development."[1] Consistent with this policy choice, the Commission has implemented PURPA in a more restrictive fashion than other western states. For example, in outlining the different approaches in Oregon and Washington, the Commission noted that Oregon utilities are required to offer standard contracts to QFs with a generation capacity up to 10 MW, and Oregon allows QFs to select fixed pricing for the first 15 years of the standard contract.[2] The Commission contrasted Oregon's approach to implementing PURPA against Washington's efforts to minimize excess costs associated with QF contracting.[3]

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[1] *WUTC v. Pacific Power & Light Co.*, Docket No. UE-130043, Order 05 ¶ 111 (Dec. 4, 2013). The Public Utility Commission of Oregon reduced the eligibility cap from 10 MW to 3 MW for solar QFs in Pacific Power's service territory in 2016. *See In the Matter of PacifiCorp dba Pacific Power Application to Reduce the Qualifying Faciltiy Contract Term and Lower the Qualifying Facility Standard Contract Eligiblity Cap*, Oregon PUC Docket No. UM 1734, Order No. 16-130 (Mar. 29, 2016).

[2] *Id.* ¶ 108.

[3] *Id* ¶ 108, 112.

The Commission has long emphasized the importance of ensuring that QF contracts do not exceed the utility's properly calculated avoided cost pricing, and has placed the burden on the utility to demonstrate that QF contract costs do not exceed that calculation.[4] Customers must remain indifferent or unaffected by QF contracts—and both avoided cost pricing and other terms and conditions of PURPA contracts affect whether retail customers remain indifferent to the purchase of QF power. PURPA's customer-indifference standard is intended to keep customers economically indifferent to the source of a utility's energy by ensuring that the cost to the utility of purchasing power from a QF does not exceed the cost the utility would incur without the purchase from the QF. If the Commission departs from its current approach to PURPA implementation, such as by increasing the eligibility cap or the term length for standard contracts, this would represent a fundamental policy shift in how renewable development is encouraged in Washington and could have a significant impact on utility customers.

II. COMMENTS

A. Avoided Cost Methodology

1. **What is the appropriate avoided cost methodology for calculating QF energy and capacity rates? A brief review of commonly cited literature identifies five methodologies: Proxy Unit, Peaker Method, Difference in Revenue Requirement, Market-Based Pricing, and Competitive Bidding.[5]**

   PURPA requires electric utilities to purchase all electric energy made available by QFs at prices that (1) are just and reasonable to electric customers, (2) do not discriminate against QFs, and (3) do not exceed "the incremental cost to the electric utility of alternative electric energy."[6] "Avoided cost" is "the incremental cost to the electric utility of electric energy or capacity or both, which but for the purchase from the QF or QFs, such utility would generate itself or purchase from another source."[7] This standard is intended to keep customers economically indifferent to the source of a utility's energy by ensuring that the cost to the utility of purchasing power from a QF does not exceed the cost the utility would incur without the purchase from the QF.

   States have a great deal of discretion in determining the appropriate method for calculating avoided cost pricing. Pacific Power supports using inputs from an integrated resource plan (IRP) when implementing the Difference in Revenue Requirement methodology, which most accurately reflects a forecast of the utility's actual avoided costs. This uses a common set of inputs and calculates avoided costs in the same way

[4] *See, e.g., WUTC v. Wash. Water Power Co.*, Cause No. U-86-119, 83 P.U.R. 4th 364, 375 (Apr. 23, 1987) ("Consistent with the goals of PURPA, ratepayers and utilities should remain indifferent to whether power is purchased from qualifying facilities or from other sources. In achieving this objective, the Commission will use the best forecasts and best assumptions possible to arrive at accurate estimates of avoided costs.").
[5] Carolyn Elefant, *REVIVING PURPA'S PURPOSE: The Limits of Existing State Avoided Cost Ratemaking Methodologies In Supporting Alternative Energy Development and A Proposed Path for Reform*, First Impression – Last resort (Oct. 2011), http://lawofficesofcarolynelefant.com/reports-publications/.
[6] 16 U.S.C. § 824a-3.
[7] 18 C.F.R. § 292.101(b)(6). FERC has identified QF characteristics "affecting rates for purchase" to be considered when determining avoided costs. *See* 18 C.F.R. § 292.304(e).

that the utility analyzes other non-QF resource options. Relying on a utility's filed IRP enables standard avoided cost prices to be based on the most up-to-date inputs available. It is also appropriate to update for discrete changes since an IRP was prepared, to capture updates to assumptions for market prices, load forecasts, and new contracts.

2. **Are there multiple methodologies that may be appropriate for calculating the energy and capacity payments, depending on its circumstances? If so, what criteria should the Commission use to identify the most appropriate methodology for a specific utility, at a specific point in time?**

   While the Commission could choose from multiple methodologies to calculate energy and capacity payments, using IRP inputs in the Difference in Revenue Requirement methodology provides a common framework for all utilities. When an IRP action plan defines a near-term resource need or opportunity, competitive bidding could be useful in determining the utility's avoided costs. However, this could be a difficult methodology to implement when utilities are not planning to acquire new resources over the near-term. Pacific Power notes that bid assessment and selection through a competitive solicitation process also relies on a Difference in Revenue Requirement methodology.

3. **Is it appropriate for a utility to calculate separate avoided capacity rates based on short-run and long-run resource requirements?**

   To maintain PURPA's customer-indifference standard, a utility should only pay for the cost of capacity, based on its current resource plan, that it would actually avoid procuring. Deferred capacity costs should be included in avoided cost pricing in a manner consistent with the resource procurement plans identified in the utility's most recent IRP, and the capacity value should be based on the capacity contribution of the specific resource.

4. **Should avoided costs be separated to reflect each type of resource's capacity value through a peak credit, Effective Load Carrying Capability, or some other calculation?**

   Avoided costs should reflect both energy value and capacity value tied to the utility's resource plans. Pacific Power supports a method that only compensates a QF resource's actual contribution to the utility's capacity need. As part of its 2017 IRP, PacifiCorp developed wind and solar capacity contribution values using the capacity factor approximation method outlined in a 2012 report produced by the National Renewable Energy Laboratory.[8] Capacity contribution is defined as the availability of wind and solar resources among hours having the highest loss-of-load probability, and the resulting values are used in the 2017 IRP load and resource balance and in the portfolio development process. The capacity contribution values from PacifiCorp's 2017 IRP are appropriate to use in determining the capacity value of qualifying facilities.

[8] *See* 2017 IRP, Volume II, Appendix N—Wind and Solar Capacity Contribution Study, citing Madaeni, S. H.; Sioshansi, R.; and Denholm, P. "Comparison of Capacity Value Methods for Photovoltaics in the Western United States." NREL/TP-6A20-54704, Denver, CO: National Renewable Energy Laboratory, July 2012 (NREL Report). http://www.nrel.gov/docs/fy12osti/54704.pdf.

B. Standard Contracts

1. **What should be the maximum design capacity of a facility to qualify for the standard offer? Should the Commission differentiate between types of resources for determining the maximum design capacity of a facility to qualify for a standard contract?**

PURPA expressly contemplates that standard avoided cost prices and contract terms should apply to very small projects (under 100 kW), but states are permitted to increase this eligibility cap. Setting the eligibility cap to 100 kW would limit the standard offer to local, genuinely small developers, and help prevent the large and well-funded out-of-state developers from capitalizing on standard offer prices and contracts to the detriment of the small independent developers. Pacific Power has seen a flood of QF development in states with higher eligibility caps for standard avoided cost prices, particularly by sophisticated, well-financed out-of-state developers taking advantage of the higher cap to earn maximum returns for investors at the expense of Pacific Power's customers.[9]

Increasing the eligibility cap for the standard offer would represent a significant departure from the current approach in Washington and would lead to increased costs to customers.

2. **For the purposes of setting the maximum design capacity of a facility to qualify for a standard contract, is it necessary for the Commission to set a minimum distance between QFs belonging to the same owner? If so, what is the appropriate distance or test for determining a minimum distance? Should the Commission set different minimum distance requirements based on the type of QF resource?**

The Federal Energy Regulatory Commission (FERC) adopted the "one-mile rule," which states that facilities are considered to be located at the same site if they are located within one mile of each other, have the same owner (or affiliate), and share the same energy resource.[10]

FERC is currently considering whether any changes are necessary to the existing one-mile rule in an ongoing proceeding.[11] FERC held a technical conference in June 2016, and parties have submitted multiple rounds of comments on this issue. Pacific Power recommends that the Commission wait until the FERC proceeding is concluded before taking action on this issue but also provides the following general comments.

A determination of whether QFs are attempting to circumvent the rules for the minimum distance between facilities through disaggregation should be a fact-based analysis using specific criteria. The Commission's analysis should not be limited to the distance between facilities. Rather, the Commission should look at a variety of factors, such as

[9] When the Public Utility Commission of Oregon reduced the eligibility cap from 10 MW to 3 MW for solar QFs in Pacific Power's service territory, it noted that a large developer in 2015 executed standard contracts with Pacific Power for seven 10 MW solar facilities and one 8 MW solar facility in just a one-week period. Oregon PUC Docket No. UM 1734, Order No. 16-130 at 4.
[10] 18 C.F.R. § 292.204(a).
[11] *Implementation Issues Under the Public Utility Regulatory Policies Act of 1978*, Docket No. AD16-16-000.

whether there are shared facilities up to the point of interconnection, whether the projects have common financing, and whether there are shared land rights. Merely addressing the distance between facilities does not address the underlying policy goals of this rule—QFs are able to circumvent the regulation when it is limited to the distance between facilities.

3. **If the Commission were to specify the term length of a standard offer power purchase agreement, how should it best balance the preference of project developers for longer term agreements to mitigate their risks against the uncertainty that the avoided cost rates in effect at the time will accurately reflect the true avoided cost to the utility in the future? Should the Commission differentiate standard contract lengths based on the type of resource?**

The customer indifference standard requires that customers remain indifferent or unaffected by QF contracts, which includes pricing and other terms and conditions of PURPA contracts. The contract term is a critical element of the utility's must-purchase requirement under PURPA because many QFs choose long-term, fixed-price contracts over "as-available" contracts,[12] which the Commission has long recognized may create financial risks for utilities and utility customers, including risks that the power may not be needed, the seller may fail to perform, and long-term pricing is inaccurate and stale. Accordingly, the Commission has stated: "All of these risks and concerns demand that regulators err, if at all, on the side of reducing the present cost to ratepayers."[13]

These concerns still exist today. If market prices drop after contract execution, long-term fixed avoided cost pricing exposes customers to financial risk. To minimize this financial risk associated with long term QF contracts, the Commission should maintain the current five-year term approved in Pacific Power's Schedule 37 tariff for standard offer contracts and specify that utilities are not required to offer a contract with a term longer than five years.[14] The five-year term will continue to ensure that resources procured on behalf of retail customers are as low cost and low risk as possible, and protect customers against unnecessary exposure to long-term price risk associated with the mandatory purchase obligation—a price risk that the utility would have no control over due to the must-purchase obligation for QF resources.

4. **Should the Commission specify in rule the point in the standard offer contract process where a utility has a legally enforceable obligation to purchase a facility's output?**

Increased certainty from the Commission regarding the point in the contract process where a utility has a legally enforceable obligation (LEO) to purchase a QF's output could help provide clarity and avoid unnecessary disputes. The purpose of the LEO is to

[12] 18 C.F.R. § 292.304(d) (describing these two QF pricing options).
[13] *WUTC v. Wash. Water Power Co.*, 83 P.U.R. 4th 364, 375.
[14] Commission Staff has previously supported this approach. *See, e.g.*, Docket No. UE-130043, Exhibit No. DCG-1CT, Testimony of David C. Gomez, page 13 lines 4-7 (discussing the downward trend in avoided cost prices driven in part by lower market prices for natural gas and stating that, "[w]hile this kind of price risk would also be present in any contract with a Washington QF, the risk impact is offset by the smaller size and output of the project and the shorter term lengths of the purchase agreements, as directed by Commission policy.").

give a QF recourse when a utility refuses to sign or needlessly delays signing a contract. The established process should protect both the QF and the utility (and ultimately the utility's customers) by: (1) preventing the utility from avoiding purchases from a QF by refusing to sign a power purchase agreement with the QF; and (2) acting as a threshold standard a QF must meet to qualify to sell to a utility at a given avoided cost.

The Commission could look to neighboring states where Pacific Power has commission-approved contracting procedures aimed at providing certainty in the contracting process and minimizing potential disputes. These procedures specify the information that the QF must provide to the utility in the contracting process and include specific milestones and timeframes for both the QF developer and the utility. In Oregon, the commission concluded that "a LEO will be considered established once a QF signs the final draft of an executable contract provided by the utility to commit itself to sell power to the utility."[15] The Oregon commission found that a QF may file a complaint to resolve a dispute if it believes a LEO should have been established earlier. In Idaho, the commission found that the process outlined in the Company's tariff reduces the potential for conflict and confusion.[16]

5. **Should the rates and the model standard offer agreements be disaggregated into separate tariffs?**

   Standard offer contracts should only be available to genuinely small QF developers who may not have the financial or technical support of large, sophisticated developers.

Please direct inquiries to Ariel Son, Regulatory Affairs Manager, at (503) 813-5410.

Sincerely,

/s/

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[15] *In re Pub. Util. Comm'n of Oregon Staff's Investigation into Qualifying Facility Contracting and Pricing*, Oregon PUC Docket No. UM 1610, Order No. 16-174 at 3 (May 13, 2016).
[16] *In the Matter of PacifiCorp dba Rocky Mountain Powers Application to Approve Elec. Serv. Schedule No. 38 Qualifying Facility Avoided Cost Procedures*, Order No. 33474 (Mar. 3, 2016).