

August 2, 2012

VIA ELECTRONIC FILING

Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Attention: David W. Danner
Executive Director and Secretary

RE: Docket No. UE-120813 – PacifiCorp June 1, 2012 Renewable Report

Dear Mr. Danner:

PacifiCorp d.b.a. Pacific Power & Light Company (PacifiCorp or Company) submits the following comments in response to discussion held at the Washington Utilities and Transportation Commission (Commission) at its July 27, 2012 open meeting regarding the Company's June 1, 2012 Renewable Report (Renewable Report). These comments are also responsive to comments filed on July 16, 2012 by Commission Staff (Staff) and joint comments by the Northwest Energy Coalition (NWECC) and Renewable Northwest Project (RNP).

I. Introduction and Summary

Following the July 27, 2012 open meeting, interested parties developed a list of issues associated with utilities' filings of their renewable and conservation achievement reports under the energy independence act (EIA), RCW 19.285 and WAC 480-109. Staff requested that parties address in their comments whether each issue needs to be addressed by the Commission now, prior to issuing an order, or could be resolved at a later time. In addition, Staff requested comment on what process should be utilized in order to address issues to be resolved at a later time.

In general, the Company agrees with Staff and other parties that there are numerous issues that remain unresolved with respect to the renewable portfolio standard (RPS) compliance and reporting requirements. However, none of the issues raised by Staff or other parties should prevent the Commission from approving the Company's Renewable Report as filed. The Company requests that the Commission issue an order in this docket approving the Renewable Report as consistent with relevant reporting requirements. The Company also urges the Commission to provide further guidance with respect to many of the issues listed below, but solely as it applies to future reports.

II. Response to List of Issues

A. Two-step compliance

As noted at the July 27, 2012 open meeting and in Staff comments, it will be difficult for the Commission to evaluate compliance with the RPS 2012 annual target set forth in RCW 19.285.040(2)(a)(i) at this time because compliance for any given target year cannot be determined until subsequent years.¹ This is because under RCW 19.285.040(2)(e), the annual target can be met with renewable energy credits (RECs) produced during that year, the preceding year, or the subsequent year. This means that compliance for target year 2012 cannot be fully assessed until 2014. As suggested by NWEC at the July 27, 2012 open meeting, one way to address this issue would be for the Commission to issue an order with a preliminary determination on each utility's progress toward meeting the annual target following the submission of the annual report. A final determination of compliance could then be made at such later time that compliance may be demonstrated i.e., for the 2012 target year, compliance could be demonstrated in 2014. This approach is acceptable to the Company.

This issue should be addressed now as the June 1, 2012 annual reports are currently before the Commission and certainty is needed with respect to how the Commission will assess the reports.

B. Reporting year information: current or preceding year

C. January 1 required actions for compliance

The Company has worked with Staff and parties to supply the information and documentation requested as part of its Renewable Report. As discussed below, the statute and rules are neither consistent nor clear on what is required in the annual June 1 renewable report. Therefore, as its highest priority going forward the Company requests certainty regarding what should and should not be included in the annual report. Given the ambiguity in the statute and rules, and because the Company supplied information consistent with Staff's requests and guidance, the Commission should accept or approve the current Renewable Report as filed.

RCW 19.285.070 states that "on or before June 1, 2012, and annually thereafter, each qualifying utility shall report to the department on its progress in the *preceding year* in meeting the targets established...." (emphasis added). While it is clear that the first report is due June 1, 2012, it is unclear as to what is required in that report because there is no annual target set for the "preceding year" i.e. 2011.² Therefore, it is unclear what "progress in the preceding year" means

¹ Both Staff and NWEC/RNP acknowledge this in their comments; see comments of RNP and NWEC at p.3; Staff comments at p. 19.

² RCW 19.285.040(2)(a) states, in relevant part, that each qualifying utility must meet the following annual targets: (i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015; WAC 180-109-020(1) states, in relevant part, that each utility must meet the following annual targets: (a) By January 1 of each year *beginning in 2012* and continuing through 2015, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least three percent of its load for the remainder of each year. (emphasis added).

with respect to the 2012 annual report. Further, WAC 480-109-040(1)(d) requires the Company to “describe the steps the utility is taking to meet the renewable resource requirements in the *current year*.” (emphasis added). RNP/NWEC argue that “current year” means the next target date (*i.e.*, 1/1/2013).³

The Company understands that this is an attempt to give some meaning to the January 1 target date. However, it is a strain of the statutory language and rules to interpret “preceding year” as current year and “current year” as next year. Such a strained interpretation is simply not necessary because, as already discussed, it is simply not possible to actually demonstrate compliance for 2012 until 2014. Until 2014, the June 1 annual report is necessarily a progress report because compliance cannot be fully verified until two years following the target year.

This issue has become unnecessarily complicated. The Company requests that the Commission issue an order accepting or approving the Renewable Report and clarifying how progress toward the 2012, 2013, and 2014 annual targets should be demonstrated, if at all, in the 2013 annual report.

NWEC/RNP also raise an issue associated with the fact that the Company “only reported enough qualifying electricity to round up to meet the three percent target.”⁴ As noted in the Renewable Report, most of the RECs identified for meeting the 2012 annual target were generated in the prior year. Because the RECs were already generated, there is no risk of underperformance. Only a small amount of generation (less than two percent) will be used from eligible renewable resources generated in the 2012 target year. To the extent that underperformance of assets becomes an issue in future target years, the Company will include this information in its annual report.

D. Resource eligibility determination

To ensure certainty that it will meet Washington RPS requirements, it is important to the Company that it receives formal verification that the resources it intends to apply toward Washington RPS compliance are qualifying eligible renewable resources. The Company requests that the Commission issue an order that includes a determination on eligibility of resources for RPS compliance. The Company requests that this issue be addressed now as the June 1, 2012 report contains sufficient information for the Commission to determine whether or not resources are eligible under the Washington RPS program. The Company proposes that verifying renewable resources as eligible as part of the annual reporting process is simpler and much more straightforward than the current alternative option, which is to petition the Commission for a declaratory order. Given the relatively straightforward eligibility criteria for most renewable resources, a petition for declaratory order is a more cumbersome process than seems necessary.

³ Comments of RNP and NWEC at p.5.

⁴ Comments of NWEC/RNP at p. 5.

E. Incremental hydro

- i. Method review
- ii. Method approval/selection

The statute and rules do not include a method for calculating incremental hydro for purposes of RPS eligibility. They also do not include the requirement that a single method be applied to all utilities. While the Company understands a desire for consistency with respect to calculating incremental hydro, it is important in this context to consider that utilities and their hydro facilities are differently situated and therefore it may be appropriate for different methodologies to be applied. It may not be sensible, or even possible, for the Company to apply the same method to its incremental hydro as one designed specifically for another utility's hydro resources.

The Company is willing to work with Staff to facilitate further review of its proposed methodology – developed under the guidance of the Oregon Department of Energy (ODOE). However, PacifiCorp requests that if another state has approved a hydro facility upgrade as eligible for incremental hydro for that state's RPS purposes, the Commission should consider accepting that facility upgrade as eligible for the Washington RPS. This is sensible, particularly in light of the fact that less than two percent of the Company's 2012 annual target will be met by incremental hydro. This percentage will only go down as the annual targets increase. It is therefore unlikely that it will be cost-effective to develop and apply a new methodology specific to PacifiCorp's Washington RPS incremental hydro upgrades.

PacifiCorp's calculation of incremental hydro should be resolved prior to the retirement of RECs and the final determination of compliance for the 2012 target year. The Company proposes that this issue could be resolved through informal workshops. If informal workshops continue in docket UE-110523, the Company proposes that the Commission retain some ability to review and approve or modify the output of the informal workshops. In this way, the parties may gain necessary certainty that items agreed upon during workshops will not change without warning or further Commission action.

iii. Potential double-counting of RECs in other states

In its comments, Staff raises a concern that incremental hydro resources may be double counted between Washington and Oregon by PacifiCorp because incremental hydro does not generate RECs eligible for use in Washington, but RECs may be used to meet Oregon or other states' requirements.⁵ This concern is not warranted. Notwithstanding the fact that PacifiCorp's utility-owned eligible incremental hydro resources do not generate RECs eligible for use in Washington, the resources are nonetheless registered with the Western Renewable Energy Generation Information System (WREGIS) and the generation from those resources is tracked in WREGIS. Even though these RECs will not technically be applied to compliance with the

⁵ Staff comments at p.18.

Washington RPS, PacifiCorp could retire the certificates in WREGIS in order to ensure there is no possibility of double counting. The potential for double-counting is eliminated once a REC is retired in WREGIS.

- iv. Using incremental hydro in the year it was generated

The company has no comment on this issue at this time.

F. Confidentiality

While the Company is willing to continue the existing process of entering into bilateral confidentiality agreements with intervenors in order to protect confidential information, this is cumbersome and not the optimal solution for protecting confidential data. Instead, the Company requests that the Commission allow parties to request a protective order in dockets opened to review renewable and conservation reports. This allows for greater transparency and is significantly less administratively burdensome than negotiating multiple bilateral agreements. The Company is not aware of an administrative rule that precludes the Commission from issuing a protective order in a non-adjudicative proceeding.

This issue should be addressed now by the Commission so that parties may have some certainty when filing subsequent reports.

G. Incremental cost

There is very little detail in the statute and rules regarding how to calculate incremental cost. As fully described in its report, the Company calculated incremental cost in a manner consistent with the statute and rules. In comments, both Staff and NWEC/RNP take issue with the Company's use of market prices to calculate incremental cost. Both sets of comments assert that this is not consistent with the requirement in RCW 19.285.050(1)(b) that the resources being compared have the same contract length or facility life.⁶ The use of market prices is consistent with the statutory requirement and with how the Company evaluates resource acquisitions.

Staff and NWEC/RNP also note the Company's use of a zero incremental cost where an eligible renewable resource is estimated to cost less than the comparable resource.⁷ Staff states that it believes that PacifiCorp should report the negative incremental cost instead of reporting it as zero, so that this information can appropriately "inform ratemaking procedures."⁸ NWEC/RNP does not appear to take a position on PacifiCorp's use of a zero incremental cost. The Company does not understand Staff's comment that the incremental cost should not be reported as zero so that the information can appropriately inform ratemaking procedures. The Company requests clarification from Staff or the Commission as to how the incremental cost calculation will inform ratemaking procedures. Additionally, it should be noted that the hydro efficiency upgrades

⁶ Staff comments at p.21; Comments of NWEC/RNP at p. 6.

⁷ Staff comments at p. 21; Comments of NWEC/RNP at p.5.

⁸ Staff comments at p.21.

occurred in the past and the costs associated with these upgrades have already been included in the rates for Washington customers.

Incremental cost of renewable resources, as defined in the statute, cannot be negative. If it is less costly to generate electricity from a renewable resource than a comparable resource, the utility will not acquire the comparable resource but rather generate electricity from renewable resources. Thus, the incremental cost of compliance is zero.

Given the lack of detail in the statute and rules, and because the Company supplied information consistent with Staff's requests and guidance, the Commission should accept or approve the Renewable Report as filed without requiring modification to the current incremental cost calculation.

This complicated issue is likely to take some time to resolve and may only be resolved after several iterations of annual compliance reports. As the Company recommended above concerning incremental hydro, this issue could also be resolved through informal workshops. If informal workshops continue in docket UE-110523, the Company proposes that the Commission retain some ability to review and approve or modify the output of the informal workshops. In this way, the parties may gain necessary certainty that items agreed upon during workshops will not change without warning or further Commission action.

H. WREGIS Administrator

In its comments, Staff states that there is an unresolved issue with respect to determining compliance in Washington because there is no Washington WREGIS administrator who can verify that a particular resource in the WREGIS system satisfies the requirements of RCW Chapter 19.285.⁹ Staff then notes that legislation enacted in 2012 may enable the Washington Department of Commerce to take on that role.

It is yet to be determined if Senate Bill (SB) 6414, which authorizes the Washington Department of Commerce to create the EIA advisory opinion process to determine whether a proposed electric generation project or conservation resource qualifies to meet a target under RCW 19.285.040 for consumer-owned utilities or individuals proposing an electric generation project or conservation resource in Washington State. At this time, the EIA advisory opinion process is only an advisory opinion. The only current option available to investor-owned utilities to receive a formal opinion is to petition the Commission for a declaratory order.

The key responsibility of the WREGIS administrator would be to determine resource eligibility for the Washington RPS program. If the Commission makes a determination regarding resource eligibility associated with the resources in the Renewable Report, the WREGIS administrator issue may be addressed later.

⁹ Staff Comments at p.7.

III. Conclusion

For the foregoing reasons, as well as those set forth in the Renewable Report, the Company requests that the Commission approve the Company's Renewable Report as consistent with the applicable reporting requirements. The Company appreciates the opportunity to submit these comments. If you have any questions regarding these comments, please contact Carla Bird at (503) 813-5269.

Sincerely,

A handwritten signature in cursive script that reads "William R. Griffith by deb".

William R. Griffith
Vice President, Regulation

Cc: Deborah Reynolds, WUTC
Lea Daeschel, Attorney General's Office
Megan Decker, Renewable Northwest Project
Rachel Simshak, Renewable Northwest Project
Danielle Dixon, NW Energy Coalition
Nancy Hirsh, NW Energy Coalition