

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFIC POWER & LIGHT  
COMPANY,

Respondent.

DOCKET UE-161204

PACIFIC POWER'S COMPLIANCE  
FILING COMMENTS

On November 14, 2017, Pacific Power & Light Company (Pacific Power), a division of PacifiCorp, filed revised tariff sheets in compliance with Order 06 (Oct. 12, 2017) (the Order). In the Order, the Washington Utilities and Transportation Commission (Commission) granted in part, and denied in part, Pacific Power's proposed revisions to tariff rules addressing permanent customer disconnections. The Order instructed Pacific Power to file conforming tariff pages, and to work with Commission Staff and other stakeholders on two issues: (1) procedures for resolving disputes regarding Stranded Cost Recovery Fee (SCRF) calculations; and (2) circumstances under which Pacific Power would abandon in place certain facilities used to serve a departing customer. As detailed below, Pacific Power's updated tariff rules comply with the Commission's instructions in Order 06.

**I. Pacific Power Collaborated with Staff and Intervenors As Required by the Order**

Counsel for Pacific Power invited counsel of record for all parties in the proceeding to discuss the issues the Commission identified in the Order. Counsel for Staff, the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel), Columbia Rural Electric Association (Columbia REA), and Boise White Paper LLC (Boise) devoted significant time to

working with Pacific Power to respond to the Commission's instructions. Through a collaborative process of phone calls and exchanging drafts, the parties were able to find common ground on many aspects of the dispute resolution procedures and the abandonment language. Pacific Power appreciates the thoughtful contributions of Staff and the other intervenors as it helped to minimize the issues that remain outstanding.

## **II. The Revised Tariff Sheets Include Reasonable Dispute Resolution Procedures**

The parties spent significant time collaborating on procedures that would govern disputes between Pacific Power and departing customers regarding the SCRF calculation. From Pacific Power's perspective, the parties generally agree on the broad contours of the procedures Pacific Power proposed. There is, however, some disagreement over the more granular aspects of the proposal. As detailed below, Pacific Power has proposed a reasonable process that will provide departing customers with a fair opportunity to dispute the SCRF while minimizing the need for Commission involvement.

The following table summarizes Pacific Power's proposed dispute resolution procedures found in Rule 6:

<b>Rule</b>	<b>Description</b>
6.I.4	Pacific Power will provide a proposed SCRF within 60 days of the request for permanent disconnection.
6.I.5	Within 60 days of receiving the SCRF, the customer must notify Pacific Power: (1) that it will pay the SCRF as proposed; or (2) it will seek an independent evaluation of the SCRF.
<b>Customer Does Not Dispute SCRF</b>	
6.I.5.a	For customers with a load less than 1 MW that elect to pay the SCRF as proposed by Pacific Power must do so within 90 days after receiving the proposed SCRF.
6.I.5.b	For customers with a load equal to or greater than 1 MW that elect to pay the SCRF as proposed, Pacific Power will submit the SCRF to the Commission for review and approval. The Customer must pay the SCRF within 90 days after Commission approval.
<b>Customer Disputes SCRF</b>	
6.I.5.c	A customer who disputes the proposed SCRF, regardless of size, must provide its independent evaluation to Pacific Power within 60 days of the date it notified Pacific Power it would obtain the evaluation. Pacific Power will respond to an independent evaluation within 30 days.
6.I.5.d	Pacific Power will take reasonable steps to respond to requests for information from the independent evaluator within 10 business days (parallel to the timeline for responding to data requests in a formal proceeding). A non-disclosure agreement will need to be in place before Pacific Power will provide confidential information.
6.I.5.e	Pacific Power and the customer will make reasonable efforts to resolve any disputes between the proposed SCRF and the results of the independent evaluation.
6.I.5.f	Clarifies that the independent evaluation is not binding on the parties.
6.I.5.g	If informal efforts to resolve disagreements regarding the SCRF are unsuccessful, the customer may request mediation under the Commission's existing dispute resolution procedures found at WAC 480-07-710 before filing a complaint.
6.I.5.h	If the SCRF dispute exceeds one year, Pacific Power reserves the right to recalculate the SCRF using updated inputs to accurately capture the stranded costs at the time of disconnection.
6.I.5.i	Pacific Power and the customer will attempt to resolve SCRF disputes in a timely manner.
6.I.5.j	Any mutually-agreed upon SCRF generated from the dispute resolution process will be submitted to the Commission for review and approval.

The proposed procedures capture a number of important concepts. First, the procedures provide both Pacific Power and the customer robust opportunities to vet and respond to competing SCRF calculations, including an opportunity for the independent evaluator to obtain

data from Pacific Power regarding how it calculated the SCRF. These steps are intended to allow the parties to informally resolve disputes and minimize contested proceedings. Second, rather than reinventing the wheel, the proposal incorporates the Commission's existing mediation rules and procedures. Third, the proposal ensures accuracy by allowing Pacific Power to update potentially stale inputs to the SCRF calculation if the dispute resolution process takes a significant amount of time.

From Pacific Power's perspective, the principal unresolved issue involves whether all SCRFs, or a limited subset, should be subject to Commission review and approval. Staff has taken the position that all SCRFs, regardless of customer size or financial impact, should be subject to a formal Commission review process. The Order is silent on this issue. It simply says that the SCRF should be calculated on a case-by-case basis, and makes no mention of a Commission review process.<sup>1</sup>

Pacific Power has proposed a bifurcated structure where agreed-upon SCRFs for large customers (i.e. with 1 MW or larger loads) would automatically be subject to review and approval. Agreed-upon SCRFs for smaller customers would not automatically be subject to Commission review (although a smaller customer could always seek Commission involvement via the dispute resolution and complaint process). Pacific Power's proposal is designed for administrative efficiency by limiting Commission involvement to SCRFs with a large impact to both the departing customer and those remaining customers who the SCRF is intended to protect. The proposal is also designed to avoid the need (and cost) for small customers who agreed to the

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<sup>1</sup> See, e.g., Conclusion of Law 12 ("Pacific Power must include in its revised tariff filing language specifying that stranded costs will be calculated on a case-by-case basis....").

SCRF to participate in a time consuming (and potentially expensive) Commission review process that will delay their disconnection.

Pacific Power notes that numerous calculations made under the net removal tariff are not subject to mandatory Commission review. For example, under the current tariff (as well as the pending compliance tariff) Pacific Power's calculations of net book value and actual costs of removal are not subject to mandatory Commission review and approval. The reason is simple—requiring Commission review and approval of every aspect of a customer disconnection is unduly burdensome for Pacific Power, the departing customer, and the Commission and its staff.

The second principal unresolved issue involves Boise's recommendation that customers be permitted to obtain SCRF calculations years before the actual disconnection will occur. Pacific Power recognizes that industrial facilities have long planning horizons, and decisions like permanent disconnection to switch service providers are not necessarily made in the short term. Nonetheless, to ensure that remaining customers are protected, SCRFs must be calculated using the most accurate and current information available. Requiring Pacific Power to calculate a SCRF for a disconnection that will occur multiple years into the future will guarantee that the resulting SCRF is inaccurate—either to the detriment of the departing customer or remaining customers. If Pacific Power is required to provide a SCRF calculation years in advance of actual disconnection, at minimum there should be a process for revising the SCRF using updated inputs to ensure the SCRF is fair and accurate.

Pacific Power, however, does not believe that this issue needs to be resolved in connection with this compliance filing. Instead, the appropriate time for resolving the duration to which a SCRF is accurate should be addressed under the facts of a specific disconnection request.

Finally, Columbia REA has proposed that Pacific Power should be responsible for all customer costs associated with the dispute resolution process if the customer prevails. This proposal is troubling for a number of reasons. First, it is unclear how the Commission would determine whether a customer “prevailed” in the dispute. Arguably, someone could argue that any situation where Pacific Power’s proposed SCRF was modified would constitute “prevailing” and the customer would be entitled to recover its costs from Pacific Power. But that is an absurd result that would disincentivize utility compromises and encourage litigation. Furthermore, Pacific Power is not aware of any circumstances under which the Commission has awarded prevailing party fees. Indeed, Pacific Power has not found any language in the Commission’s enabling statutes authorizing it to award prevailing party fees. Accordingly, Pacific Power did not incorporate that suggestion into its proposed tariff rules.

In sum, the proposed dispute resolution procedures are consistent with the Order and represent a fair and reasonable process for resolving disputes between Pacific Power and a departing customer regarding proposed SCRF calculations.

### **III. The Revised Decommissioning Language is Consistent with the Order**

The Commission also instructed Pacific Power to work with Staff and intervenors regarding language governing circumstances when underground facilities would be decommissioned in place. Decommissioning facilities in place would only occur under limited circumstances when safety or operational concerns preclude actual removal (and the customer has declined the option to purchase facilities at net book value). An example of decommissioning underground facilities would be pulling wires then capping the underground conduit.

As requested by the Commission, the revised decommissioning language in Rule 6.I.2 addresses the issues raised in Public Counsel's testimony. Specifically, the revised decommissioning language references the NESC code, records maintenance, and notification of third parties of any decommissioned facilities.

Columbia REA suggested that there are no circumstances where decommissioning would be a viable option, and that decommissioning would result in waste. Pacific Power disagrees. It is possible that a scenario arises where a departing customer has declined the option to purchase facilities at net book value, but demonstrated operational or safety concerns preclude removing underground facilities. Pacific Power recognizes that such a circumstance would be rare. Nonetheless, the tariff rules should retain flexibility for Pacific Power to abandon underground facilities in place after de-energizing them—again, when removal is precluded by demonstrated operational or safety concerns. Pacific Power has also modified the rule to clarify that it will retain ownership of, and liability for, facilities that are decommissioned in place.

#### **IV. Other Modifications**

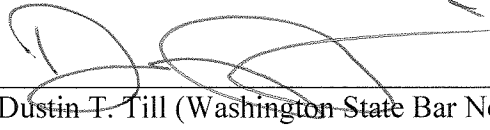
Exhibit A shows redline changes Pacific Power made to the tariff rules in compliance with the Order. Specifically, the redlines reflect changes made to the revised version of the tariff filed on May 17, 2017, in Exhibit RMM-3.

Exhibit B is a matrix summarizing where the specifics of the Commission's decision are reflected in the tariff pages. The changes summarized in the matrix demonstrate that the revised tariff rules comply with the Order.

#### **V. Conclusion**

Pacific Power respectfully requests that the Commission approve the December 1, 2017 compliance filing as submitted.

Respectfully submitted this 15<sup>th</sup> day of December, 2017.



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