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**VIA ELECTRONIC FILING**

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**RE: Docket U-180907—Pacific Power & Light Company’s Comments**

The Washington Utilities and Transportation Commission (Commission) has requested comments to further develop an Expedited Rate Filing (ERF). Shifting regulatory policies, such as Senate Bill (S.B.) 5116,<sup>1</sup> which significantly changes the regulatory environment in Washington, necessitate the need for nimble regulatory mechanisms. Pacific Power & Light Company (Pacific Power), a division of PacifiCorp, believes that a well-designed ERF process could be a useful tool in the Commission’s regulatory toolbox to promote innovation in the face of new industry-wide challenges, reduce administrative burden for all stakeholders, as well as a more collaborative regulatory background.

**I. Background**

Large capital investments by utilities often include large generation resources or transmission: major infrastructure used to serve retail load. State policies that require the use of “clean” or non-emitting resources, however, will also require changes in how utilities plan for and serve load, including investments in resources beyond large generation resources, such as demand response and grid modernization or other technologies to reduce utility emissions of greenhouse gases. There is uncertainty regarding implementation of recently passed state policy, but Pacific Power encourages the Commission to consider how an ERF and other regulatory mechanisms, such as multi-year rate plans and inclusion of capital additions within the rate-effective period,<sup>2</sup> can allow expedited cost recovery of investments necessary to comply with S.B. 5116. The Commission has already acknowledged that ERFs “are an important tool to address regulatory lag that also helps companies and ratepayers respond quicker to the changing energy landscape.”<sup>3</sup>

Pacific Power’s own attempt at an ERF resulted in an expedited filing, but did not result in a corresponding narrowing of the issues. The Commission determined that “ERFs are not a formal creation; such filings have no specialized regulations or statutes apart and separate from the

<sup>1</sup> S.B. 5116, 66th Leg., Reg. Sess. (Wash. 2019) (Awaiting the Governor’s signature by May 20, 2019).

<sup>2</sup> S.B. 5116, Sec. 20.

<sup>3</sup> *WUTC v. Puget Sound Energy*, Docket UE-180899, Order 05 at ¶41 (Feb. 21, 2019).

Commission’s general rate regulations.”<sup>4</sup> The Commission did not recognize Pacific Power’s case as an ERF but allowed for an expedited procedural schedule. However, simply compressing the time period for a general rate case without also narrowing the issues places an increased burden on all parties involved. Pacific Power’s experience highlighted the need for clearer guidelines and expectations for ERFs, as well as the need for other streamlined and limited-issue mechanisms that could help avoid frequent general rate cases.

Puget Sound Energy’s (PSE) 2017 ERF structure provided for consideration of a limited set of issues related to transmission, distribution, and administration and general expenses for cost recovery.<sup>5</sup> PSE’s ERF maintained the rate of return, rate spread and rate design from PSE’s most recently filed general rate case and did not include net power costs.<sup>6</sup> The Commission described this submission as “a one-time, limited true-up of electric and natural gas rates, completed on an expedited basis between general rate cases.”<sup>7</sup> Although PSE’s ERF did not include major capital additions, as a flexible regulatory mechanism, an ERF should allow for recovery of new renewable facilities, energy storage, transmission, or grid modernization. These types of investments are likely to be necessary for utilities to respond quickly to the changing energy landscape.

## II. Pacific Power’s Experience with Flexible Regulatory Mechanisms

In California, Pacific Power has a Post Test Year Adjustment Mechanism (PTAM), which allows for the timely recovery of “prudently incurred cost increases related to inflation, new plant, general operating cost increases, unforeseen events, and changes in capital structure.”<sup>8</sup> The PTAM allows for cost recovery of major capital additions to plant-in-service that are greater than \$50 million on a total-company basis.<sup>9</sup> Pacific Power submits an advice letter containing information about the proposed capital addition to the California Public Utilities Commission (CPUC). This filing is open to protest and is reviewed by the Energy Division of the CPUC. Pacific Power’s process in California allows for capital investments to be included in rates with minimal regulatory lag. However, Pacific Power’s mechanism allows post-test year ratemaking that has historically been unavailable within the regulatory structure in Washington.<sup>10</sup> Pacific Power has been able to use the PTAM to include wind facilities<sup>11</sup> and new transmission assets.<sup>12</sup>

The Renewable Adjustment Clause (RAC) in Oregon allows for recovery of prudently incurred costs “to construct or otherwise acquire facilities that generate electricity from renewable energy sources, costs related to associated electricity transmission and costs related to associated energy

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<sup>4</sup> *WUTC v. Pac. Power & Light Co.*, Docket UE-152253, Order 03 at ¶14 (Dec. 29, 2015).

<sup>5</sup> *WUTC v. Puget Sound Energy*, Docket UE-170033, Order 08 at Appendix A, Exhibit I (Dec. 5, 2017).

<sup>6</sup> *WUTC v. Puget Sound Energy*, Docket UE-170033, Order 08 at Appendix A, Exhibit I (Dec. 5, 2017).

<sup>7</sup> *WUTC v. Puget Sound Energy*, Docket UE-180899, Order 05 at ¶2 (Feb. 21, 2019).

<sup>8</sup> *In Re PacifiCorp*, Case No. A. 05-11-022, D. 06-12-011 at 3 (Dec. 14, 2006).

<sup>9</sup> *In Re PacifiCorp*, Case No. A. 05-11-022, D. 06-12-011 at Attachment A §2.3.2 (Dec. 14, 2006).

<sup>10</sup> “Whether called attrition or known by some other name, proposals such as SCE’s [Post-test year ratemaking] mechanism have been approved in utility rate proceedings on several occasions over the past 20 years[.]” *In Re Southern California Edison Co.*, Docket A.02-05-004, D. 04-07-022 at 204 (July 8, 2004).

<sup>11</sup> *PacifiCorp Advice Letter No. 428-E*, Cal. Pub. Util. Comm’n (Nov. 29, 2010).

<sup>12</sup> *PacifiCorp Advice Letter No. 492-E*, Cal. Publ. Util. Comm’n (Jun. 10, 2013).

storage.”<sup>13</sup> The RAC is specifically authorized by statute and was adopted by the legislature to ensure minimal regulatory lag for resource acquisitions associated with compliance with the state’s renewable portfolio standard. This process allows for the creation of an automatic adjustment mechanism (separate tariff) for the incremental costs and capital that is necessary for investment in renewable energy sources. The automatic adjustment clause is updated annually and continues until the incremental costs are included in base rates during a general rate case. Pacific Power is currently seeking to recover the costs associated with repowering the company’s wind fleet through the RAC.<sup>14</sup>

Both of these mechanisms have provided benefits for customers and enabled Pacific Power to respond nimbly and efficiently to resource opportunities. Taking advantage of flexible regulatory mechanisms also allows the company to minimize rate cases. Pacific Power was able to effectively manage its business without the need for rate cases in California for nine years and, during that time, was able to use the PTAM mechanism to include discrete capital additions into California rates.

Similarly, in Oregon, Pacific Power is able to manage the timing of its next rate case through use of the RAC. Pacific Power filed a RAC in 2019 to reflect the costs of its wind repowering project in rates (production tax credit benefits have already been included in rates through the company’s annual power cost mechanism).<sup>15</sup> Without a mechanism like the RAC, Pacific Power’s choices would be limited to filing a general rate case or waiting until the next general rate case to include both the costs and benefits of these investments.

A break from the continuous cycle of rate cases has resulted in a noticeable improvement in Pacific Power’s relationships with stakeholders and facilitated a continued corporate focus on minimizing rate increases for customers. Decreasing the frequency of rate cases also helps alleviate the administrative burden on the Commission and other stakeholders. Overall, these mechanisms have facilitated Pacific Power’s ability to quickly respond to changes in the energy landscape and better meet the needs of its customers.

### **III. Structuring an ERF for the Future**

An ideal ERF would allow cost recovery of a limited set of prudently incurred costs including facilities that generate electricity from renewable sources, transmission assets, energy storage, or grid modernization without a full general rate case. Properly designed and with an expedited process, it could limit the number of general rate cases and ease the administrative burden on the Commission and stakeholders. Such a mechanism could also benefit customers by providing a unique regulatory tool to allow utilities to pursue renewable resources and new technologies on their behalf.

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<sup>13</sup> ORS 469A.120.

<sup>14</sup> See *In the Matter of PacifiCorp d/b/a Pacific Power 2019 Renewable Adjustment Clause*, Docket UE 352, Advice No. 18-011 (Dec. 28, 2018).

<sup>15</sup> In both California and Oregon, Pacific Power also updates net power forecasts annually.

Pacific Power's recommendation is to allow the ERF to include recovery of the costs of constructing or acquiring renewable energy resources, energy storage, transmission assets, or grid modernization. These incremental capital and operating costs would be included outside of a general rate case and recovered through a separate tariff. When a utility next files a general rate case, these costs can be rolled into base rates. Additionally, the ERF would preclude any changes to rate of return, and use the utility's cost of service, rate spread, and rate design from the last general rate case. The proceeding would be limited to the prudence and cost recovery for the types of investments described above.

This ideal ERF would be structured for expedited prudence review. It could proceed upon a brief petition with certain required information and even be considered at a Commission public meeting. However, as with all petitions, if there were significant concerns from staff or stakeholders, then that process could be suspended and an expedited procedural schedule could be set to resolve the case. Pacific Power recommends that a time limit of 120 days be set to allow for the resolution of an ERF.

Through this rulemaking proceeding and the imminent passage of S.B. 5116, the Commission has a unique opportunity to develop an ERF that would enable utilities to respond to the new environmental commitments without being in annual rate cases. The language for S.B. 5116 allows for the inclusion of property that is in service by the rate effective date, and contemplates the use of flexible regulatory mechanisms.<sup>16</sup> To meet the goals set by S.B. 5116, utilities will need to make new investments in their system. The ability to include these investments in rates while reducing the administrative burden and avoiding endless contentious litigation would be beneficial to all stakeholders involved.

#### **IV. Conclusion**

Pacific Power noted in a regulatory filing before the Federal Power Commission in 1938 that “[i]t has been the policy of the company since its organization in 1910 to make effective the lowest possible rates consistent with good service and sound operating practices.”<sup>17</sup> From a system peak load of 57 megawatts (MW) in 1938<sup>18</sup> to over 10,000 MW in 2019,<sup>19</sup> Pacific Power and the energy and regulatory landscape have shifted in the past 80 years. However, that core principle of providing safe and reliable service with affordable rates has not changed. Having access to revised mechanisms like the ERF will be an additional tool that could help utilities better meet the needs of customers by easing the process of incorporating new technologies and renewable resources.

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<sup>16</sup> S.B. 5116, Sec. 20.

<sup>17</sup> PACIFIC POWER & LIGHT COMPANY, RECLASSIFICATION OF ELECTRIC PLANT STATEMENTS A TO I INCLUSIVE 20 (1938).

<sup>18</sup> PACIFIC POWER & LIGHT COMPANY, RECLASSIFICATION OF ELECTRIC PLANT STATEMENTS A TO I INCLUSIVE 14 (1938).

<sup>19</sup> PACIFIC POWER & LIGHT COMPANY, 2017 INTEGRATED RESOURCE PLAN UPDATE 3 (2018) *available at* [https://www.pacificorp.com/content/dam/pacificorp/doc/Energy\\_Sources/Integrated\\_Resource\\_Plan/2017%20IRP%20Update/2017\\_IRP\\_Update.pdf](https://www.pacificorp.com/content/dam/pacificorp/doc/Energy_Sources/Integrated_Resource_Plan/2017%20IRP%20Update/2017_IRP_Update.pdf).

