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**Re: Docket UE-190448—Pacific Power & Light Company’s Reply Comments
in Support of its 2019 Renewable Portfolio Standard Report**

Pacific Power & Light Company (Pacific Power), a division of PacifiCorp, submitted its 2019 Renewable Portfolio Standard (RPS) report to the Washington Utilities and Transportation Commission (Commission) on May 31, 2019 (Report), in accordance with WAC 480-109-210. Subsequently, the company and Commission staff (Staff) corresponded and engaged in conversations regarding certain components of the Report. In response to requests for clarifications or corrections, Pacific Power submitted certain revisions to the Report on July 2, 2019. Commission Staff filed a recommendation regarding the Report on July 15, 2019. Comments were also filed by Public Counsel and NW Energy Coalition (NVEC) on July 15, 2019.

While Staff is satisfied Pacific Power can meet its nine percent RPS target for 2019, it nonetheless concludes that the company’s approach to meeting its 2019 RPS target does not comply with the Commission’s rules.¹ This is based on Staff’s assertion that the Commission’s rules require utilities only account for resources operating or contracted for as of January 1 of the target year in the calculation of incremental cost.² Staff also asserts that the company’s identification of certain information in the report as confidential runs counter to the spirit of the public disclosure in the Energy Independence Act (EIA) and the Commission’s confidentiality rules.³ As fully described below, the company disagrees with Staff’s interpretation of the Commission’s rules and therefore also disagrees that it has failed to comply with any requirements associated with the Report. Public Counsel and NVEC echo Staff’s concerns regarding the company’s identification of certain information as confidential.⁴

No party argues that the company: (1) failed to accurately calculate its renewable resource target; (2) failed to acquire or arrange to acquire adequate renewable energy credits (RECs) or qualifying generation to comply with the renewable resource target; or (3) identified new

¹ Staff Comments at 10.

² Staff Comments at 8.

³ Staff Comments at 9. Staff cites to RCW 19.285.070 and WAC 480-07-160(2)(b), (5)(a) and (e).

⁴ It is not clear in NVEC’s comments whether they support approval of the approval of the Report; NVEC’s comments acknowledge that the company will meet its 2019 RPS requirements but present conflicting statements on whether approval should be provided in light of its concerns regarding assumptions made in the incremental cost calculation and the company’s request to protect certain confidential information. Public Counsel takes no position regarding the Commission’s acceptance of the Report.

renewable resources that are not eligible for meeting the company's renewable resource target.⁵ This is important because these are the only three items the Commission *must* evaluate in its decision regarding the company's Report.⁶ Staff, Public Counsel, and NWEAC each confirm the company has appropriately calculated its renewable resource target for 2019 and will meet this renewable resource target using eligible resources or RECs that have been acquired or will be acquired during the target year.⁷

Because the company correctly calculated its 2019 renewable resource target and set forth an appropriate plan for complying with this target there is no basis to reject the Report.⁸ As detailed below, while the company engaged with Staff regarding the incremental cost calculation and treatment of confidential information in its Report and intends to continue these discussions, resolution of these issues does not prevent acceptance of the Report by the Commission. Instead, the Commission should accept the company's Report and determine the appropriate process for resolution of outstanding items.

The company provides additional information regarding its incremental cost calculation and the confidential data presented in its report below. The collaborative work with Staff highlighted the complexity of accounting for repowered resources in RPS reports and Pacific Power recognizes additional work is necessary to address the unique issues associated with calculating the incremental costs of repowered resources. Pacific Power welcomes the opportunity to continue to work with Staff and other stakeholders to address these unique and complex issues and the company supports Staff's recommendation to clarify how the incremental cost methodology applies to planned upgrades of existing renewable resources in the upcoming EIA rulemaking.

The stated intent of the EIA is to require large utilities to obtain fifteen percent of their electricity from new renewable resources such as solar and wind by 2020 and undertake cost-effective energy conservation.⁹ To balance the goal of acquiring new renewable resources with associated costs, utilities are required to include cost information related to the renewable resources acquired to meet their renewable resource targets.¹⁰ Utilities are also afforded the option of meeting a cost cap as an alternative to the EIA requirements.¹¹ The cost cap limits a utility's costs related to acquiring renewable resources to four percent of total annual revenue requirement on the incremental costs of eligible renewable resources, renewable energy credits, or a combination of both. This calculation of revenue requirement ratio uses an incremental cost calculation methodology that is set forth in the regulations.¹²

⁵ In fact, the company has not identified any new resources to use for compliance in 2019.

⁶ WAC 480-109-210(3)(b).

⁷ See, e.g., Public Counsel Comments at 1 and Staff Comments at 10 (*stating* that "Staff is satisfied that Pacific Power can meet its 9 percent RPS target for 2019").

⁸ See WAC 480-109-210(3) (setting forth the criteria for a Commission determination regarding a utility's RPS report). See also Docket UE-120813, Order 01, Regarding Pacific Power's 2012 Renewable Energy Target (September 13, 2012) at 13-16 (September 13, 2012) (noting concerns raised by stakeholders, including Staff, regarding the company's incremental cost calculation but finding the company met its RPS and RPS reporting requirements).

⁹ RCW 19.285.010.

¹⁰ WAC 480-109-210(2).

¹¹ WAC 480-109-220.

¹² WAC 480-109-210(2)(a)(ii).

The incremental cost calculation is defined as a one-time calculation of incremental cost for each eligible resource at the time of acquisition or, for historical acquisitions, the best information available at the time of acquisition. Regardless of a company's method of compliance with the renewable resource standard, an incremental cost calculation is required to be included in each utility's RPS report (*i.e.*, this calculation is required as part of the report even when a utility is not seeking alternative compliance through meeting the cost cap). Accordingly, the company has provided its incremental cost calculations and methodology in the Report in its Attachment C and in Confidential work papers in compliance with WAC 480-109-210(2)(a). The company *does not seek a finding of alternative compliance*. As detailed in the Report and acknowledged in stakeholder comments, the company has acquired (or will acquire) sufficient resources and/or RECs to meet its obligations for 2019. The incremental cost calculation in this Report is to monitor the costs of the RPS program. For this reason, the company's Report should not be rejected while stakeholders work through how to incorporate repowered resources into the incremental cost methodology.

PacifiCorp's Incremental Cost Calculation

Staff's comments identify two concerns regarding the company's incremental cost calculation. First, Staff argues the company should not have included the planned upgrades to its wind resources in its incremental cost calculation because Staff asserts it is premature to include non-operational assets even if their operational date is within the compliance year.¹³ Second, Staff is concerned with the company's selected non-eligible resource used as the comparison to the repowered resources.¹⁴ The company responds to each of these concerns below.

Inclusion of Repowered Assets in the Incremental Cost Calculation

In its comments, Staff states that it believes including the planned repowering activities in the Report is premature.¹⁵ The basis for this is not rooted in whether or not the resources are or will be eligible for the RPS in the 2019 target year, but is due to a conclusion that a utility cannot include a resource in the incremental cost calculation unless it is operating or contracted for as of January 1 of the target year. Staff rests its argument on WAC 480-109-210(2)(a), which states that a utility must "make a one-time calculation of incremental cost for each eligible resource *at the time of acquisition* or, for historic acquisitions, the best information available at the time of the acquisition." This language should not be read to exclude resources if they are not operational or contracted for as of January 1 of the target year. A more reasonable interpretation of this language is to require that a resource be incorporated into the incremental cost calculation at the point it becomes operational and creates RECs—even if the time of operation is anticipated at some point during the target year. This can be, and has been, done even if the analysis itself is performed in advance and assumes a resource will come on line as of a certain date.

¹³ Staff Comments at 8.

¹⁴ *Id.*

¹⁵ *Id.*

Staff's position is also at odds with the purpose of the annual RPS report, which is to ensure each utility has a *plan* in place for the target year that will allow it to meet its obligations.¹⁶ If a utility knows a resource will be available and eligible to contribute to its compliance with its RPS obligations it should be included in the annual RPS report. Without this information, a utility would not be filing an accurate report that sets forth its compliance plan for the year. WAC 480-109-210(1) directs utilities to include the resources it has acquired or contracted to acquire to meet its renewable resource obligation for the target year. With respect to repowered resources included in the Report, the company has executed contracts and has a reasonable expectation that the repowered resources will contribute to compliance for the 2019 target year.¹⁷ There is nothing in the language of WAC 480-109-210 or related precedent to suggest resources like these should not be included.

In fact, in its order accepting the company's 2012 RPS report, the Commission noted that "[i]n the report it files on June 1 of the target year, [,] a utility must demonstrate that it had in hand, as of January 1 of the target year, *rights to eligible renewable resources* or RECs that are likely to produce the required output that year."¹⁸ The company has rights to the repowered resources and therefore based on Commission precedent it is appropriate to include these resources in the 2019 report and the incremental cost calculation. This is also consistent with the company's 2018 report wherein Pacific Power included certain solar facilities that were anticipated to be operational during the target year but were not in operation at the time the company filed its report.¹⁹ The Commission accepted the company's 2018 report, including its plan to use RECs associated with these solar resources, finding the resources were intended to be operational during the compliance year and would be eligible for Washington RPS requirements.²⁰ It is consistent with the Commission's prior decisions for the company to include these resources that will become operational and will be used for RPS compliance during the target year.

Staff states in its comments that it discussed this issue with the company and advised the company to discuss the repowering efforts in the narrative of a revised report but to refile its supporting incremental cost workpapers without these repowered resources.²¹ For the reasons described above, the company properly included the repowered resources in its Report. As the repowered resources are properly included in the Report, Pacific Power does not support excluding them from the incremental cost calculation. The purpose of the incremental cost calculation is to act as a customer cost protection—to provide an alternative pathway for utilities whose costs exceed a statutory limit. If resources are included in the compliance report for the target year but excluded from the incremental cost calculation, it ceases to be an effective customer cost protection because not all the costs of compliance are captured. While the case of repowering is unique and complex, the company strongly asserts that it is not an appropriate resolution to remove repowered resources entirely from the incremental cost calculation. This sets a potentially consequential precedent of excluding resources from the incremental cost

¹⁶ WAC 480-109-210(2)(c) (stating that the utility must "describe the resources that the utility intends to use to meet the renewable resource requirements for the target year.").

¹⁷ The current expected online date for the repowered projects are as follows: Leaning Juniper: August 4, 2019. Goodnoe Hills: September 29, 2019. Marengo I and II: November 10, 2019.

¹⁸ Docket UE-120813, Order 01 at 12 (emphasis added).

¹⁹ Docket UE-180500, Pacific Power Report at 8.

²⁰ Docket UE-180500, Order 01, at 2 (August 9, 2018).

²¹ Staff Comments at 8.

calculation that will be used for compliance in the target year but may not be operational until after January 1 of the target year.

In its comments, Staff asserts that the company has refused to address Staff's concerns with the company's planned repowering efforts and incremental cost calculation. While the company declined to exclude the repowered resources from its Report or the incremental cost calculation as Staff suggested, the company continues to be willing to work with Staff and interested stakeholders to address concerns with *how* repowered assets are included in the incremental cost calculation. To that end, Pacific Power continued to develop alternative options for how to reflect repowered resources in the incremental cost calculation but timing constraints prevented the company and Staff from reaching consensus on the best approach. Although Pacific Power disagrees that repowered resources should be excluded from the incremental cost calculation the company continues to be ready and willing to tackle the challenge of how best to do it.

Selection of the Appropriate Non-eligible Resource for Repowered Resources

As a unique issue, the Commission's rules do not squarely address how to calculate the incremental cost of repowered resources. The current RPS report template does not accommodate repowering because it does not allow changes to an existing resource nor a corresponding "repower" of the non-eligible resource to compare to the repowered eligible resource. A repowered resource is not exactly the same as a new resource acquisition in that some of the original fixed costs remain even while capacity values and depreciable lives are updated. In addition, the company's integrated resource plan (IRP) does not have a comparable "repowered" non-eligible resource.

In light of this, in an attempt to comply with WAC 480-109-210(2)(a)(i)(C) and operate within the confines of the RPS report template provided by the Commission, the company selected its 2007 IRP as the source of the non-eligible resource it compared to the repowered resources. Utilities are directed under WAC 480-109-210(2)(a)(i)(C) to "select and document the lowest-reasonable-cost non-eligible resource available to the utility at the time of the eligible resource's acquisition for each corresponding eligible resource."²² The incremental cost calculation was contemplated as a one-time calculation and therefore the template for the Report does not provide an opportunity to update the non-eligible resource for the corresponding eligible resource. The company used the nameplate capacity for the repowered resources as calculated in the company's 2017 IRP. WAC 480-109-210(2)(a)(i)(B) requires a utility to identify the resource value of each eligible resource as calculated in the company's most recent IRP. The 2017 IRP updated the nameplate capacity of these resources to reflect repowering.

While the company took what it believed to be a reasonable approach given the constraints of WAC 480-109-210 and the template provided by the Commission, the company understands Staff's concern that the approach taken in the Report creates a mismatch between the time the resource was repowered and the non-eligible resource selected.²³ Following discussion with Staff, the company made internal efforts to explore alternative approaches for including repowered resources in the incremental cost calculation. However, given the complexities,

²² WAC 480-109-210(2)(a)(i)(c).

²³ Staff Comments at 8.

likelihood of the need for a new or modified report template, and the significant time and resources required to perform the incremental cost analysis, the company was not able to timely compile an updated report. The company recommends that further discussions be held with Staff and interested stakeholders to define and agree to the best way to represent additional costs to customers incurred to meet the requirements of the RPS through repowering of existing resources.

In light of the fact that the company is not seeking alternative compliance through the cost cap, and no issues have been raised regarding the company's compliance with the required standard, Pacific Power recommends that the Commission accept its Report and direct stakeholders to engage in an informal process to clarify the incremental cost calculation for repowered resources that will be included in future reports. As part of this informal stakeholder process, Staff and the company would report back to the Commission at a future open meeting regarding resolution on these issues.

Confidential Information in the Report

The comments filed in response to the Report raise concerns with the information that has been redacted.²⁴ The company has consistently redacted information, specifically REC purchase prices and individual resource generation forecasts, in its RPS compliance reports as permitted by RCW 80.04095 and WAC 480-07-160 because this information is commercially sensitive. The disclosure of this information could result in putting the company at a competitive disadvantage and thereby have a negative impact to customers. The company redacts information that would allow calculation of REC prices and information that would allow a determination of the company's REC position (*i.e.*, information that would allow someone to determine whether the company needs to purchase RECs and/or the quantity of RECs needed by the company). At times, the company procures RECs through open solicitations for bids to sell RECs to the company. The company does not establish a price range, instead, relying on bidders to bring their most competitive price. If the company's forecast of future REC prices is available, it is likely that information will be viewed by bidders as a price range the company is willing to accept and used by bidders as either floors or ceilings on bid prices.²⁵ This results in bid prices that are driven less by competitive market forces and more by bidders' insights into company exposure. Any inflated costs incurred by the company will be passed on to customers. It is therefore in the best interest of Washington customers to keep this information protected.

²⁴ Public Counsel also includes an unsupported statement that its understanding is "that stakeholders in previous proceedings have not been able to access the [company's] confidential information, limiting their review." Public Counsel Comments at 2. The company is not aware of any instances where this has occurred and without additional information from Public Counsel cannot respond. The company reiterates its willingness to enter into non-disclosure agreements with interested stakeholders.

²⁵ In its comments, Staff point out that the company's previous year's data is available publicly. This is correct. It is not possible to derive the company's forecast of future REC prices from historical data, which is therefore not commercially sensitive.

In support of the assertions the company's redactions are overly broad, the comments state the company's Report contains more redacted information than other utilities.²⁶ This comparison is not relevant to a determination of whether the company has complied with the Commission's rules governing confidential information and any differences in redactions should not be viewed as evidence of non-compliance by the company. Without knowing the reasons for why the other utilities have limited redactions in their RPS reports, Pacific Power cannot fully respond to these statements. However, there are potential explanations for these inconsistencies that include presentation of the data provided in the RPS reports or differences in how the utilities operate or relative positions in REC markets. This inconsistency should be discussed further between the company and Staff. The company agrees there may be ways to change its presentation of data in the report to satisfy the priorities of Staff and other stakeholders. As Staff notes in its comments, redacted information has been an area of disagreement since at least 2016. Pacific Power appreciated the opportunity to engage with Staff on this issue during an informal discussion on July 2, 2019, and recommends that the Commission direct stakeholders to engage in an informal process to further understand the concerns and priorities of Staff, the company, and other stakeholders and resolve this issue ahead of the 2020 filing.

During these July 2nd discussions, Pacific Power was able to provide more detailed explanations for its protection of information in the Report and discussed possible solutions including providing the information in the Report in a different format (*e.g.*, aggregated data) or redacting different categories of data to prioritize the data Staff would most like to be able to release publicly while simultaneously protecting the economic interests of the company and its customers.

Like the incremental cost calculation concerns discussed at length above, there is nothing in WAC 480-109-210 to prevent the Commission from finding the company has complied with its reporting obligations for 2019 based on disagreements over confidential information designation. This is especially true because Staff and Public Counsel have been provided the confidential information and it has been the company's practice to provide this confidential information to interested stakeholders following execution of a non-disclosure agreement.

Finally, the company notes allegations that its protection of competitively sensitive information for the benefit of its ratepayers is contrary to the "spirit of the public disclosure of the Energy Independence Act and the [C]ommission's confidentiality rules"²⁷ are not supported by either the EIA or RCW 80.04.095. First and foremost, the Commission's rules regarding confidential information are intended to protect the very type of information redacted in the Report. The company has redacted information that would result in unfair competitive disadvantage; this is

²⁶ Public Counsel Comments at 1; NWECC Comments at 1. NWECC also asserts that there are "troubling" inconsistencies within the company's publicly provided data. The inconsistencies are only due to NWECC's misunderstanding of the company's statement on page 5 of the report. On page 5 of the Report the company states that it will rely for compliance, in part, on "eligible RECs." These eligible RECs include RECs from the solar resources referred to on page 11 of the Report. Similarly, only certain solar resource RECs are included publicly on page 11 of the Report because the company (for the reasons set forth in these comments and its initial filing) considers forecast REC amounts to be commercially sensitive. As a result, the company has provided the actual REC numbers for 2018 and redacted the forecasted RECs for 2019 and 2020. The company is willing to engage further with NWECC if there are any other areas of the Report that require clarification.

²⁷ Staff Comments at 9; *see also* NWECC Comments at 1.

precisely the type of information these protections are intended for. The EIA does not diminish the protections afforded to utilities under the Commission’s rules. Notably, the EIA is silent on this issue. Further, the EIA Declaration of Policy states in relevant part that “making the most of our plentiful local resources will stabilize electricity prices for Washington residents.”²⁸ It is this focus on rates that is at the center of the company’s concerns with disclosure of information that could create a disadvantage for the company in the REC market. Commenters also appear to equate redaction of information *with failing to provide such information*.²⁹ This is simply incorrect. Pacific Power has provided all information required under WAC 480-109-210; any unresolved issues regarding redactions should not serve as a basis for determining non-compliance with these reporting requirements.

Conclusion

Pacific Power appreciates the opportunity to provide these comments in response to Staff’s report and recommendation to the Commission regarding its 2019 RPS report. As outlined above, the company has complied with the applicable regulations and provided sufficient documentation that it has or will acquire adequate renewable resources or RECs to meet its 2019 obligations. Accordingly, Pacific Power respectfully requests the Commission accept the company’s 2019 RPS report. Pacific Power also requests the Commission to direct stakeholders to engage in an informal process to address the incremental cost calculation for repowered or upgraded renewable resources and confidentiality issues and report back to the Commission at a future open meeting before the next RPS reports are due. Pacific Power looks forward to engaging in additional discussions with stakeholders regarding the concerns raised in comments to reach consensus in advance of preparation of its 2020 RPS report.

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

Sincerely,

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²⁸ RCW 19.285.020.

²⁹ NWECC Comments at 1.