



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

September 19, 2013

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Oregon Public Utility Commission
3930 Fairview Industrial Dr. S.E.
Salem, OR 97302-1166

Attn: Filing Center

**RE: UM 1670—PacifiCorp's Answer and Affirmative Defenses to Columbia Basin
Electric Cooperative's Complaint**

PacifiCorp d/b/a Pacific Power submits for filing an original and five copies of its Answer and Affirmative Defenses to Columbia Basin Electric Cooperative's Complaint in the above-referenced proceeding.

It is respectfully requested that all formal data requests to the Company regarding this filing be addressed to the following:

By e-mail (preferred): datarequest@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Please direct any informal inquiries to Bryce Dalley, Director of Regulatory Affairs & Revenue Requirement, at (503) 813-6389.

Sincerely,

William R. Griffith/As
William R. Griffith
Vice President, Regulation

Enclosures

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of PacifiCorp's Answer and Affirmative Defenses to Columbia Basin Electric Cooperative's Complaint on the parties listed below via electronic mail and/or US mail in compliance with OAR 860-001-0180.

UM 1670

Jerry M. Healy (W)
Columbia Basin Electric Cooperative Inc
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PacifiCorp dba Pacific Power & Light
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CT Corporation System
North Hurlburt Wind LLC
285 Liberty Street NE #370
Salem, Oregon 97301

Dated this 19th of September.



Amy Eissler
Coordinator, Regulatory Operations

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1670

COLUMBIA BASIN ELECTRIC
COOPERATIVE, INC., an Oregon
cooperative corporation

Complainant,

vs.

PACIFICORP d/b/a Pacific Power, an
Oregon corporation,

Defendant

and

NORTH HURLBURT WIND, LLC, a
foreign limited liability company

Defendant.

ANSWER AND AFFIRMATIVE
DEFENSES TO COLUMBIA BASIN
ELECTRIC COOPERATIVE'S
COMPLAINT

1

INTRODUCTION AND PRELIMINARY MATTERS

2

Pursuant to ORS 756.512 and in accordance with OAR 860-001-0400, PacifiCorp d/b/a Pacific Power (Company) files its answer to the complaint filed on or about August 28, 2013, by Columbia Basin Electric Cooperative (CBEC) against the Company and North Hurlburt Wind, LLC (North Hurlburt) alleging violations of various statutory provisions administered by the Public Utility Commission of Oregon (Commission), including the Oregon service territory allocation statute and various administrative rules.

8

Communications regarding this complaint should be addressed to:

Oregon Dockets
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232
Phone: 503.813.5542
Email: oregondockets@pacificorp.com

Michelle Mishoe
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, Oregon 97232
Phone: 503.813.5977
Email: michelle.mishoe@pacificorp.com

1 In addition, PacifiCorp requests that all data requests regarding this Answer be sent to
2 the following:

3 By email (preferred): datarequest@pacificorp.com

4 By regular mail: Data Request Response Center
5 PacifiCorp
6 825 NE Multnomah, Suite 2000
7 Portland, Oregon 97232

8 Informal questions may be directed to Bryce Dalley, Director, Regulatory Affairs &
9 Revenue Requirement at 503-813-6389.

10 PacifiCorp admits, denies, alleges, and affirmatively defends as follows:

11 **IDENTITY OF THE PARTIES**

12 1. PacifiCorp admits the allegations in paragraph 1 of the Complaint. PacifiCorp
13 holds exclusive service territory in Gilliam and Morrow counties, granted by the Commission
14 in Order No. 39812, Docket No. UF 2405; Order No. 39987, Docket Nos. UF 2415 and
15 2419; Order No. 44099, Docket No. UF 2658; and Order No. 82-025, Docket No. UF 3764.

16 2. PacifiCorp does not have sufficient information to admit or deny the factual
17 allegations contained in paragraph 2 of the Complaint. PacifiCorp denies the remaining
18 allegations to the extent a legal conclusion is required.

19 3. PacifiCorp does not have sufficient information to admit or deny the factual
20 allegations contained in paragraph 3 of the Complaint. PacifiCorp denies the remaining
21 allegations to the extent a legal conclusion is required.

22 **APPLICABLE LAWS AND REGULATIONS**

23 4. The allegations in paragraph 4 of the Complaint contain legal conclusions and
24 no answer is required. PacifiCorp denies the allegations on this basis.

25 5. The allegations in paragraph 5 of the Complaint contain legal conclusions and
26 no answer is required. PacifiCorp denies the allegations on this basis.

1 **FACTUAL BACKGROUND**

2 6. PacifiCorp does not have sufficient information to admit or deny the
3 allegations contained in paragraph 6 of the Complaint, with the exception of the referenced
4 Public Utility Commission of Oregon (Commission) order, which speaks for itself.

5 7. PacifiCorp does not have sufficient information to admit or deny the
6 allegations contained in paragraph 7 of the Complaint, with the exception of the referenced
7 document, which speaks for itself.

8 8. PacifiCorp denies the allegations contained in paragraph 8 of the Complaint.

9 9. The allegations in paragraph 9 of the Complaint contain legal conclusions and
10 no answer is required. PacifiCorp denies the allegations on this basis.

11 10. PacifiCorp does not have sufficient information to admit or deny the
12 allegations contained in paragraph 10 of the Complaint.

13 11. PacifiCorp does not have sufficient information to admit or deny the
14 allegations contained in paragraph 11 of the Complaint, with the exception of the referenced
15 Oregon Energy Facility Siting Council order, which speaks for itself.

16 12. PacifiCorp denies the allegations contained in paragraph 12 of the Complaint,
17 with the exception of the referenced document, which speaks for itself.

18 13. PacifiCorp denies the allegations contained in paragraph 13 of the Complaint,
19 with the exception of the referenced document, which speaks for itself.

20 14. PacifiCorp admits the allegations contained in paragraph 14 of the Complaint,
21 with the exception of the referenced document, which speaks for itself.

22 15. PacifiCorp admits the allegations contained in paragraph 15 of the Complaint.
23 The referenced document speaks for itself.

1 16. PacifiCorp admits the allegations contained in paragraph 16 of the Complaint.

2 The referenced document speaks for itself.

3 17. PacifiCorp neither admits nor denies the allegations contained in paragraph 17

4 of the Complaint. The referenced document speaks for itself.

5 **LEGAL CLAIMS**

6 **Answer to Complainant's First Claim for Relief**

7 18. PacifiCorp incorporates its answer in paragraphs 1-17 above.

8 19. The allegation contained in paragraph 19 of the Complaint contains a citation
9 to a statute, which speaks for itself.

10 20. PacifiCorp denies that its provision of electric service to Horseshoe Bend
11 Wind, LLC for the Shepards Flat South wind project violates ORS 758.450. PacifiCorp
12 further denies that the provision of such electric service is within CBEC's exclusive service
13 territory.

14 21. PacifiCorp denies that its provision of electric service to South Hurlburt Wind,
15 LLC for the Shepards Flat Central wind project violates ORS 758.450. PacifiCorp further
16 denies that the provision of such electric service is within CBEC's exclusive service territory.

17 22. PacifiCorp denies causing economic harm to CBEC by providing electric
18 service to Shepards Flat South and Shepards Flat Central wind farms.

19 **Answer to Complainant's Second Claim for Relief**

20 23. PacifiCorp incorporates its answers in paragraphs 1-22 above.

21 24. The allegations in paragraph 24 reference a Commission order, which speaks
22 for itself.

23 25. PacifiCorp denies its provision of retail electric service to Shepards Flat South
24 and Shepards Flat Central violates the referenced Commission order.

1 **Answer to Complainant's Third Claim for Relief**

2 26. PacifiCorp incorporates its answers in paragraphs 1-25 above.

3 27. The allegation contained in paragraph 27 of the Complaint contains a citation
4 to a statute, which speaks for itself.

5 28. PacifiCorp denies the allegations contained in paragraph 28 of the Complaint.

6 29. PacifiCorp denies the allegations contained in paragraph 29 of the Complaint.

7 30. PacifiCorp denies the allegations contained in paragraph 30 of the Complaint.

8 **Answer to Complainant's Fourth Claim for Relief**

9 31. PacifiCorp incorporates its answer in paragraphs 1-30 above.

10 32. The allegations in paragraph 32 reference a Commission order, which speaks
11 for itself.

12 33. PacifiCorp denies the allegations contained in paragraph 33 of the Complaint.

13 34. Except as expressly admitted, PacifiCorp denies each and every allegation
14 contained in the Complaint.

15 **AFFIRMATIVE DEFENSES**

16 35. For further answer and by way of affirmative defenses, PacifiCorp alleges as
17 follows:

18 36. CBEC has failed to state a claim upon which relief may be granted.

19 37. CBEC's claims are barred, in whole or in part, by statutes of limitations
20 applicable to ORS Chapters 756 and 758.

21 38. CBEC's claims are barred, in whole or in part, by the doctrine of laches.
22 CBEC knew or should have known through publicly-available sources or actual knowledge
23 of the siting and construction the Shepards Flat South and Central wind projects. PacifiCorp

1 reasonably relied on CBEC's failure to raise these issues in PacifiCorp's provision of service
2 to Shepards Flat Central and Shepards Flat South.

3 39. CBEC's claims are estopped, in whole or in part, based on the above-
4 referenced conduct.

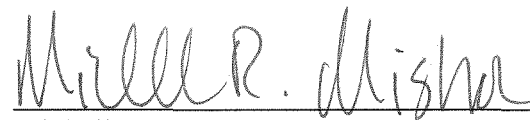
5 40. CBEC's intention of providing electric service to portions of Shepards Flat
6 Central and all of Shepards Flat South violates ORS 758.450(2). PacifiCorp holds exclusive
7 service territory in Gilliam and Morrow counties, granted by the Commission in Order No.
8 39812, Docket No. UF 2405; Order No. 39987, Docket Nos. UF 2415 and 2419; Order No.
9 44099, Docket No. UF 2658; and Order No. 82-025, Docket No. UF 3764. PacifiCorp
10 provides service to the entirety of Shepards Flat wind farm through a point of delivery
11 located solely in PacifiCorp's exclusive service territory.

12 41. Discovery and investigation are continuing and, therefore, PacifiCorp reserves
13 the right to assert additional affirmative defenses, as well as any necessary counterclaims
14 and/or third-party claims.

15 WHEREFORE, having fully answered CBEC's complaint, PacifiCorp respectfully
16 requests the Commission:

- 17 A. Dismiss the Complaint;
18 B. Deny all relief requested by CBEC in the Complaint; and
19 C. Grant PacifiCorp such other relief as the Commission deems just and
20 reasonable.

DATED: September 19, 2013.



Michelle R. Mishoe
Senior Counsel
Pacific Power
Counsel for PacifiCorp