

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of)	UE 296
)	
PacifiCorp, dba Pacific Power, 2016 Transition)	REVISED CROSS EXAMINATION
Adjustment Mechanism)	STATEMENT OF NOBLE AMERICAS
)	ENERGY SOLUTIONS LLC

Noble Americas Energy Solutions LLC (“Noble Solutions”) hereby submits this Revised Cross Examination Statement in this proceeding before the Public Utility Commission of Oregon (“OPUC” or “Commission”). This Revised Cross Examination Statement removes the ten minutes of time previously reserved to cross examine Jorge Ordonez, witness for Commission Staff, and respectfully requests that in light of the unique procedural circumstances of this proceeding that Noble Solutions be permitted to present ten minutes of live rebuttal testimony from Mr. Kevin C. Higgins at the beginning of the hearing.¹ For the reasons explained below, allowing Noble Solutions to present live rebuttal testimony on the renewable energy credit (“REC”) issue is justified because:

- PacifiCorp introduced a new theory in reply testimony on the REC credit issue – prejudicing Noble Solutions’ ability to completely address the issue.
- PacifiCorp’s new theory was introduced through expert testimony, and it would be unfair to limit Noble Solutions’ response to statements by counsel in legal briefing.

¹ As Noble Solutions indicated at the prehearing conference in this matter, Mr. Higgins is scheduled to appear at another hearing in another state on Wednesday, August 26, 2015. Therefore, Mr. Higgins would need to testify early in this hearing on Tuesday in order to catch the evening airline flight on Tuesday.

- PacifiCorp has itself indicated it may present live rebuttal testimony on issues that it argues other parties have introduced late in this proceeding – indicating that PacifiCorp appears to believe live rebuttal testimony can be appropriate.
- Noble Solutions will limit the live rebuttal testimony to the amount of time it had otherwise reserved for cross examination of Commission Staff’s witness, thus limiting the impact on the overall time to complete the hearing.

PacifiCorp’s introduction of a new theory late in this proceeding necessitates an opportunity for live rebuttal testimony from Noble Solutions’ witness, Mr. Higgins. Specifically, Noble Solutions proposed that direct access customers should not pay twice for renewable portfolio standard (“RPS”) resources, and therefore the Commission should include a credit in the transition adjustment calculations based on the actual value of RECs sold by PacifiCorp. *See Noble Solutions’ Prehearing Memorandum* at 9-11. Because Noble Solutions was only provided with one round of testimony in this proceeding, Noble Solutions inquired of PacifiCorp, via a data request in the form of an interrogatory,² what basis PacifiCorp had to oppose such a REC credit. *See id.* at 11 n.4; Noble Solutions/102, Higgins/9 (containing the data request). In response to the interrogatory, PacifiCorp did not state that departing direct access customers will receive a share of the benefits of REC sales, if they occur. Noble Solutions/102, Higgins/9. Therefore, Noble Solutions had no opportunity to respond to such position in its only round of testimony. Yet in reply testimony, PacifiCorp introduced this new theory to oppose the REC credit. PacifiCorp’s witness, Mr. Brian Dickman, testified: “To the extent the Company

² Pursuant to OAR 860-001-0540(1), “[d]ata requests are written interrogatories or requests for production of documents.”

generates revenues from selling RECs, those revenues are passed back to all customers through a property sales balancing account. Thus, departing direct access customers will receive a share of the benefits of those sales, if they occur.” PAC/500, Dickman/83:5-8.

Noble Solutions’ Schedule of Exhibits filed on August 18, 2015, stated that Noble Solutions reserved the right to supplement the material to be submitted into the record due to PacifiCorp’s failure to timely respond to discovery. The data request at issue regarded PacifiCorp’s new theory that departing direct access customers will receive a “share” of the benefits of REC sales, if they occur. *See Noble Solutions’ Schedule of Exhibits*, at Proposed Exhibit (1) (containing PacifiCorp’s Response to Noble Solutions’ Data Request 5.27, which is incomplete with regard to subparts (b) and (c) and states PacifiCorp would supplement the response to subpart (c)). PacifiCorp has still not supplemented its response to the data request at the time of this filing. At this point, with the hearing scheduled four days from the date of this filing and limited utility of further discovery and exhibits on this issue, Noble Solutions submits that it would be more efficient for the parties and the Commission to allow live rebuttal testimony from Mr. Higgins responding to the new theory introduced by Mr. Dickman in the lines quoted above. The expert testimony of PacifiCorp on this point warrants Noble Solutions’ own expert testimony to ensure that the record is complete.

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For the reasons set forth above, Noble Solutions requests that it be allowed to present live rebuttal testimony from Kevin C. Higgins at the beginning of the hearing, and revises its cross examination statement as follows:

- (1) Name/Party: Brian Dickman/PacifiCorp
 - (a) Subject matter of cross-examination:
Transition Adjustment and Consumer Opt-Out Charge
 - (b) Anticipated time needed: 1 hour
- (2) Name/Party: Judith N. Ridenour/PacifiCorp
 - (a) Subject matter of cross-examination:
Transition Adjustment and Direct Access Service Requests
 - (b) Anticipated time needed: 1 hour

Noble Solutions also reserves the right to ask follow-up questions of any witness who is cross-examined by another party, the Administrative Law Judge, or the Commissioners.

RESPECTFULLY SUBMITTED on August 21, 2015.

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